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IN THE

Supreme Court of the United States

October Term, 1965

No. 219

JOHNNIE K. BAXSTROM,

Petitioner,

v.

R. E. HEROLD, Director, Dannemora State Hospital,

Respondent.

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF NEW YORK.

BRIEF AND APPENDICES FOR RESPONDENT

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No. 219

JOHNNIE K. BAXSTROM,

Petitioner,

v.

R. E. HEROLD, Director, Dannemora State Hospital,

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ON WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF NEW YORK.

BRIEF FOR RESPONDENT

Constitutional Provisions and Statutes Involved

This case involves the Sixth Amendment and Section 1 of the Fourteenth Amendment to the Constitution of the United States and the following Laws of New York (the relevant portions appear in Appendices B & C): Correction Law §§ 375, 377, 380, 383, 384, 385, 386, 388, 400, 402, 405, 408, 409 and 410; Mental Hygiene Law §§ 2, 3, 5, 7, 10-a, 11, 15, 20, 21, 23, 70, 72, 73, 74, 75, 85, 86, 87, 88, 100 and 426; Civil Practice Act §§ 7001-7012.

Questions Presented

1. Whether retention, after expiry of sentence of a person in a State hospital—maintained for the care and treatment of insane criminals, the criminally insane and the dangerous civilly insane—to which he was committed under New York Correction Law while serving a prison sentence, violates any constitutional guarantee.

2. Whether at the judicial hearing furnished a patient of such hospital upon expiry of sentence, due process and equal protection require that counsel be assigned to the patient and that such hearing be a trial by jury.

Statement of the Case

Petitioner, a multiple offender convict, was duly certified as insane in 1961 and was transferred from prison to Dannemora State Hospital (R. 2).[1] This is a fact admitted and not in issue.

Dannemora is a hospital maintained for insane criminals, the criminally insane, and certain dangerous civilly insane (A. 6,[2] Correction Law § 375).

Upon expiry of sentence (December 18, 1961), petitioner was duly retained in Dannemora (A. 8, Correction Law § 384). Pursuant to (a) the hospital director's petition (R. 2, 3), (b) certification of two court-assigned, disinterested examining physicians (R. 3-5), (c) service of notices of judicial hearing upon petitioner and next-of-kin (R. 7-10), and (d) judicial hearing and decision thereon December 6, 1961 (R. 11), then and only then was petitioner certified by judicial order to the custody of the Commissioner

[1] Hereinafter referred to as Dannemora.

[2] Refers to page in Appendices.

of Mental Hygiene to be placed in an appropriate state institution of the Department of Mental Hygiene or of the Department of Correction (R. 12).

It is to be noted that certification, transfer, retention by reason of insanity and subsequent *habeas corpus* proceedings were severally tested by separate judicial hearings. Though no counsel represented petitioner, he himself was present at all times and was given full scope to speak and to question (R. 14-18; 22-30; 41-44).

Writs of *habeas corpus,* after judicial hearings, were dismissed in 1962 and in 1963 (R. 31, 32; 45, 46). Each petition was on the same grounds. The Appellate Division of the Supreme Court, State of New York, affirmed the 1963 order of dismissal (R. 46-47). The Court of Appeals of the State of New York denied a motion for leave to appeal (R. 48).

This Court granted certiorari (R. 49; 381 U. S. 949).

POINT I

Dannemora State Hospital, in which petitioner is retained, is a hospital and not a prison. At expiry of sentence, those who had been committed to Dannemora from a prison, are transferred from the custody of the Department of Correction to the custody of the Department of Mental Hygiene. This hospital under jurisdiction of the Department of Correction is substantially similar to hospitals under jurisdiction of the Department of Mental Hygiene. Petitioner's retention is fundamentally fair. There is no deprivation of petitioner's constitutional rights.

A

The New York Department of Correction maintains hospitals which are separate and independent of its prisons.

Its patients require a greater degree of security precautions than in the hospitals the Department of Mental Hygiene maintains.

In contrast to prisons, Correction and Mental Hygiene hospitals are substantially similar:

(1) The hospitals are not on prison grounds; Dannemora is *outside* the walls of Clinton Prison (Appendix I); administratively as well as physically it is completely independent;

(2) Physicians, not wardens, are the chief executive officers (A. 6, Correction Law § 377);

(3) There are no walls or fences; security is only within;

(4) There are no guns or nightsticks carried by personnel;

(5) There is no punishment or loss of time nor are there trusties;

(6) There is no compulsory labor;

(7) There are no cells; rooms are larger, and dormitories and wards predominate; space requirements per patient are alike—and larger than in any prison;

(8) Visiting rights are liberal; no separation by screens or barriers; no attendant present within hearing distance; no stripping and searching of patients before and after visits;

(9) Assaultive and dangerous patients are placed in restraint and seclusion when necessary;

(10) Standards of medical care and treatment are comparable; hospital, drug and medical costs are highest at Dannemora (*cf.* A. 46 through A. 51);

(11) The ratio of staff to patients is comparable;

(12) Physicians make daily rounds and see every patient; physicians are accessible at any time for private interviews; thus there are no "forgotten men".

Also, see Appendix D (A. 42).

Petitioner contends that Dannemora is "maintained at a penal institution" (Ptr's Br., p. 9). He errs. His reliance on *People ex rel. Brown* v. *Johnston,* 9 N. Y. 2d 482 (1961) and *People ex rel. Kamisaroff* v. *Johnston,* 13 N. Y. 2d 66 (1963), is misplaced (Ptr's Br., n. 1, p. 9). In both cases no issue was ever raised that Dannemora was a *prison.* Dannemora is a *bona fide* hospital unattached to any penal institution. Remarks in the *Kamisaroff* and *Brown* opinions on this point are based on erroneous assumptions. These observations have less force than *dicta,* for they do not relate even remotely to the issues. The issues there were the rights to judicial hearing and to jury trial and as to both, the New York Court of Appeals held in accordance with our position in the instant case.

Other than *dicta* and unsupported allegations of insubstantial matter, petitioner has failed to offer any real evidence that Dannemora is not a hospital.

True, the Department of Correction has jurisdiction of Dannemora. But statutes require cooperation and mutuality of purpose between the Departments of Correction and Mental Hygiene (e.g., A. 22, 23; Mental Hygiene Law §§ 11, 20, 21).

Dannemora is visited and inspected by Mental Hygiene (A 6; Correction Law § 375). Examining physicians must have like qualifications (A. 7, Correction Law § 383[1]; A. 19, Mental Hygiene Law § 2[18]). All papers in commitment proceedings must be filed with Mental Hygiene (A. 8, Correction Law § 383[5]). Retention after expiry of sentence transfers custody of the patient to Mental Hygiene (A. 8, Correction Law § 384[1]). By agreement between Mental Hygiene and Correction, a patient may be placed in "an appropriate institution" in Mental Hygiene or Correction (A. 10, Correction Law § 384[2, 3]).

Staff personnel are interchangeable (A. 20, Mental Hygiene Law § 5). Also, civil service specifications for Correction *hospital* personnel differ markedly from those for *prison* personnel (A. 52-62). Mental Hygiene is empowered to investigate a Correction hospital (A. 21, Mental Hygiene Law § 7[8]; A. 36, Mental Hygiene Law § 86). Patients may be transferred to a Correction hospital from any Mental Hygiene hospital (A. 21, Mental Hygiene Law § 10-a). Forms for use in procedures for admission to Correction hospitals are furnished by Mental Hygiene (A. 9, Correction Law § 384[1]; A. 24, Mental Hygiene Law § 70[2]; R. 1-13). Patients retained under Correction Law § 384 may be discharged by Mental Hygiene (A. 38, Mental Hygiene Law § 87[3]).

In short, Correction and Mental Hygiene are as one in the matter of caring for and treating the mentally ill.

To any observation that the very fact that time is credited means a prison, the answer is: All felons, placed in civil hospitals for surgery or treatment, continue to serve sentence; the hospital hardly becomes a prison for that reason.

Dannemora being a hospital, petitioner's conversion, by expiry of term, from *insane criminal* to the status of *criminally insane* (one with dangerous or criminal propensities) is not decisive of the issues in this case.

B

It is fundamentally fair to retain patients, requiring hospitalization as still insane, after expiry of sentence if two factors are present: (1) Rational basis for the classifications; and (2) Adequate safeguards for persons affected before retention, accompanied specifically by the two essential elements of (1) notice and (2) opportunity to be heard.

Many are insane but not criminal. He who commits repeated felonies and after conviction becomes insane, may fairly be described, we think, as "doubly abnormal". A tick of the clock surely does not end this double abnormality. Proven criminal tendencies, together with continuing insanity, set apart those so marked. To commingle this group with the civilly insane would serve only to inflict harsh and unreasonable discrimination on the civilly insane. In an environment of loose security and relaxed observation, the civilly insane would be subjected to unjustified dangers at the hands of the "doubly abnormal".

Figures on violence demonstrate that it is fair and reasonable to classify the criminally insane as a group. Four hundred sixty-two patients (roughly one-half of the total Dannemora population) are retained under Correction Law § 384 as of November 18, 1965. This is their record:

Robbery	— 120
Assault	— 88
Burglary	— 93
Manslaughter	— 28
Carnal abuse	— 3
Sodomy	— 5
Grand Larceny	— 72
Rape	— 13
Carrying Concealed Weapon	— 11
Incest	— 2
Bigamy	— 1
Receiving Stolen Property	— 2
Arson	— 10
Drugs	— 9
Forgery	— 5
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"The Constitution in enjoining equal protection of the laws upon the States precludes irrational discrimination as between persons or groups of persons in the incidence of a law. But the Constitution does not require situations 'which are different in fact or opin-

ion to be treated in law as though they were the same' " (*Goesaert* v. *Cleary*, 335 U. S. 464, 466).

"Equal protection does not require identity of treatment. It only requires that classification have some relevance to the purpose for which the classification is made, and that the different treatments be not so disparate, relative to the difference in classification, as to be wholly arbitrary. * * * Our disapproval of the wisdom or fairness [of the classification] * * * is not a ground for interference" (*Walters* v. *City of St. Louis*, 347 U. S. 231, 237). "The test is whether it has some foundation in experience, practicality or necessity" (*MacDougall* v. *Green*, 335 U. S. 281, 289).

"Experience, practicality and necessity" furnish solid foundation for classification of the "criminally insane". The classification has relevance to the dangers intended to be avoided and the treatment of the two classes is "not so disparate" as to be "wholly arbitrary".

The second factor determining fundamental fairness relates to safeguards of the rights of the patient. Are there adequate and proper means to establish or to refute that a patient is criminally insane?

First, the essential elements of notice and opportunity to be judicially heard are provided (Correction Law § 384 [1]). Second, two court-appointed, disinterested physicians examine and certify the patient (*id.* [2]).

Any time thereafter (and as often as he desires), the retained patient may apply for his discharge to a court of record (Mental Hygiene Law § 87[3]) or he may employ *habeas corpus* (Civil Practice Act §§ 7001-7012). Also, he or a relative or a friend can resort to *habeas corpus* under Mental Hygiene Law § 426.

Of importance is the fact that New York has just this year created new, special and extra safeguards for *retained*

involuntary patients (A. 39, Mental Hygiene Law § 88). The Presiding Justice of each appellate division in the State appoints a staff to study and review admission and retention of involuntary patients. This arm of the court protects civil and constitutional rights of the patients (the staff is composed of lawyers and civil service personnel) by means of (1) full investigations, (2) formal, written reports to the judge holding the sanity hearing (he has discretion to assign counsel if needed) and (3) attendance at the hearing, representing the patient and eliciting testimony from all parties and witnesses.

New York provides other statutory requirements designed to protect the rights of the mentally ill. Complete case records and information are required to be filed with Mental Hygiene (A. 22, 23, Mental Hygiene Law §§ 20, 21); examining physicians must certify mental condition, pursuant to administrative order authorized by law or court order (A. 24, Mental Hygiene Law § 70[1, 2]); certificates to the court must set forth the facts and circumstances underlying the physicians' judgment (*id.* [4]); certificates must be backed up by a staff physician's examination at admission (A. 25, Mental Hygiene Law § 72[1]); notice with information as to his rights must be given to a patient and to his nearest relative (*id.* [2]); a patient may have a judicial hearing on the need for hospitalization within sixty days after admission (*id.* [3]); if he does not ask for a judicial hearing, the director of the hospital may apply for a court order of limited retention, with notice to the patient and to his nearest relative, and the patient may then ask for a judicial hearing (A. 28, Mental Hygiene Law § 73); a *dangerous* civilly insane patient may be certified to a Correction hospital by two court-assigned physicians after notice and judicial hearing (A. 33, 34, Mental Hygiene Law § 85); with court aid when needed, Mental

Hygiene may investigate illegal detention in *any* hospital and improper care and treatment (A. 36, Mental Hygiene Law § 86).

The highest New York court, the Court of Appeals, has ruled that retention in Dannemora, pursuant to Correction Law § 384, is constitutional on the grounds that the classification is reasonable, that the patient can always resort to procedure under Mental Hygiene Law § 87[3]) for a discharge and that he has the right of appeal to the higher courts (*People ex rel. Kamisaroff* v. *Johnston,* 13 N. Y. 2d 66 [1963]; *People ex rel. Brunson* v. *Johnston,* 15 N. Y. 2d 647 [1964]).

At least seven States[3] have statutes similar to those of New York as to retention of insane criminals after expiry of sentence. The Supreme Judicial Court of Massachusetts has declared:

> "[Petitioner's] continued confinement after expiration of his sentence in an asylum for insane criminals would be in accord with policy established by the State that the criminal insane, or persons who have been vicious in their lives, should be confined in an institution especially devoted to their care.
>
> "We discover nothing unconstitutional in the statute * * *. 'Petitioner is entitled, as a matter of right, to institute judicial proceedings under the statute to determine the necessity or propriety of his confinement.' * * * the right to institute judicial proceedings under statutes is a sufficient protection of his liberty 'to meet constitutional requirements' ". (*In re LaDonne,* 173 Mass. 550; 54 N. E. 244, 245 [1899].)

The same Court, in *LaMorre* v. *Supt. of Bridgewater State Hospital,* 199 N. E. 2d 204 (1964), affirmed this position that a retention statute is not penal "but merely a method for identifying, isolating and curing * * *".

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[3] Georgia, Iowa, Louisiana, Massachusetts, Michigan, Ohio, Pennsylvania.

C

Petitioner (1) is rightfully classified in the "criminally insane" group and (2) his constitutional rights have not been violated.

In 1961 petitioner was administratively transferred from prison to Dannemora under a former statute (Ptr's Br., p. 64) that has been replaced by present Correction Law § 383. Petitioner was found to be "violent and dangerous" because of "convulsive disorder, epileptic deterioration" (R. 2).

In late 1961 two court-assigned, disinterested physicians examined petitioner and found him to be, among other things, "aggressive", particularly following epileptic seizures (R. 4, 5). There has been organic deterioration of the brain (R. 28). Concerning petitioner's statement that his epilepsy "is equally applicable to the two million epileptics in the United States" (Ptr's Br., p. 15), it might not be remiss to point out that the vast numbers of epileptics possess neither criminal tendencies nor records of criminal violence, in marked contrast to petitioner.

Dr. Ian Kerr's statement that "there is no reason why [petitioner] could not be treated in a civil mental hospital" (Ptr's Br., p. 15 and discussion) might better be evaluated in light of the preceding colloquy about a desired transfer to an out-of-state hospital, and weighed against the same doctor's professional diagnosis of "organic deterioration of [petitioner's] brain" and his acceptance of "assaultive tendencies" on petitioner's part (R. 28).

After due notice and judicial hearing at expiry of sentence, petitioner was certified by court order as mentally ill. He was placed in the custody of the Commissioner of Mental Hygiene to be kept in an appropriate State institu-

tion of Mental Hygiene or of Correction (R. 7-18; Correction Law § 384 [A. 8]).

Petitioner incorrectly claims that he "would have been entitled to a jury trial" under the Mental Hygiene Law (Ptr's Br., p. 16). Such right is granted only to those retained *pursuant to Mental Hygiene statutes* (A. 30, § 74). Those retained under Correction Law § 384 are expressly dealt with in Mental Hygiene Law § 87[3] (A. 38). (And see *id.* [1].)

Since 1961, petitioner has, by means of *habeas corpus,* received two judicial inquiries before different judges. Court-assigned, disinterested physicians (R. 42), by personal examinations, have confirmed the original findings. Petitioner has been given full opportunity to be heard in open court.

On the bases of these independent findings and periodic examinations of petitioner's conduct and record as reported by staff physicians, as well as by personal examinations of Mental Hygiene physicians, it has been confirmed that petitioner is not suitable for care in a Mental Hygiene hospital (R. 38; Appendix A-1).

We submit there has been no evidence of an unreasonable, arbitrary or capricious act. Petitioner's constitutional rights have been protected.

POINT II

Under Correction Law § 384, retention of the criminally insane at expiry of sentence does not require assigned counsel and jury. The Sixth and Fourteenth Amendments do not grant these rights in a civil proceeding. The fact that a statute grants the *civilly* insane right to a jury does not discriminate against the *criminally* insane.

Petitioner may not demand assigned counsel and jury as a matter of right in a *habeas corpus* sanity hearing, since it is a civil proceeding. Here, too, we have a civil proceeding. *Gideon* v. *Wainwright*, 372 U. S. 335, and similar decisions of this Court, which hold there is a right to assigned counsel, arise out of criminal prosecutions.

Petitioner now demands assigned counsel under the Fourteenth Amendment (Ptr's Br., p. 11). He also demands a jury on the ground that a statutory grant of that right only to the *civilly* insane (A. 30; Mental Hygiene Law § 74) is arbitrary (Ptr's Br., p. 21).

The Sixth Amendment limits counsel and jury to criminal prosecutions.

"The Due Process Clause does not guarantee to a citizen of a state any particular form or method of state procedure. Under it he may neither claim a right to trial by jury nor a right of appeal. Its requirements are satisfied if he has reasonable notice and reasonable opportunity to be heard and to present his claim or defense, due regard being had to the nature of the procedure and the character of the rights which may be affected by it" (*Dohany* v. *Rogers*, 281 U. S. 362, 369). This Court reaffirmed the principle in *Armstrong* v. *Manzo*, 380 U. S. 545. Assignment of counsel was *not* declared to be required.

Ulterior motives too often accomplish the commitment or continued detention of alleged civilly insane persons. Avarice, hatred, self-interest move individuals to railroad or frame even those closest to them. Allegations and denials, charges and counter-charges raise issues of fact related to the question of sanity. A judge may not be able to cope with all these side issues. Here counsel and jury serve a vitally useful purpose.

Vastly different is the case of an alleged criminally insane. The risk of a miscarriage of justice is remote, if not totally absent. His sanity hearing is held in vacuum, so to speak, as to sterilize the sole issue of sanity free of any other issue or consideration. Court-appointed, disinterested physicians can hardly be suspect of ulterior motives in the case of the criminally insane already in a State hospital. It is fair to presume that the court has appointed only a qualified, reputable, objective and impersonal physician to report findings to the court, whether it be under the Correction and Mental Hygiene laws or in *habeas corpus*.

Counsel and jury may be vital factors when an *accusatory* proceeding comes into play, for the purpose is *penal*. But as this Court said of an arson investigative proceeding which barred attorneys, *since it in no way sought to fix or adjudge responsibility,* "[this is] * * * not a criminal trial * * * [but] * * * *a proceeding solely to elicit facts*" (*In re Groban,* 352 U. S. 330, 332) (Emphasis added). This is true of a proceeding under Correction Law § 384. And Justice FRANKFURTER's observation is equally true: "The assumption that as a normal matter such an inquiry carries with it deprivation of some rights of a citizen assumes inevitable misuse of authority. For good reasons, and certainly for constitutional purposes, the contrary assumption must be entertained" (*id.* p. 336).

"The constitutional rights to counsel held to be essential in criminal cases * * * are not necessarily applicable to proceedings of this sort" (*LaMorre* v. *Supt. of Bridgewater State Hospital,* 199 N. E. 2d 204, 206 [1964]).

In *Minnesota ex rel. Pearson* v. *Probate Court,* 309 U. S. 270, there was an examination by two court-appointed doctors, *there was no jury* and counsel was assigned at the court's *discretion.* This Court found a rational basis in grouping sex psychopaths as "constitutin[g] a dangerous element in the community which the legislature in its discretion could put under appropriate control. As we have often said, the legislature is free to recognize degrees of harm, and it may confine its restrictions to those classes of cases where the need is deemed to be clearest" (p. 275).

The searching out of a *condition* of the mind, with the help of court-appointed, disinterested physicians at an open judicial hearing and on notice, no more requires the assistance of a lawyer and jury than does the searching out of smallpox or any contagion of the body. If mental condition be *essentially* a legal rather than medical question, so is any physical condition which results in restriction of liberty.

The loss of liberty that ensues upon a finding of insanity is an unhappy concomitant—not a penalty. Insanity being no offense, counsel and jury are not necessary elements in every case else fundamental fairness is lacking.

The case at bar is distinguishable from *Skinner* v. *Oklahoma,* 316 U. S. 535, cited by petitioner. Favoring one type of habitual offenders there over all other types of habitual offenders *for no ascertainable reason* is discriminatory. Here, the criminally insane are classified differently from those lacking criminal tendencies for the good reason that the former are dangerous. As Mr. Justice BLACK pointed

out: "Indeed, showing that different persons are treated differently is not enough, without more, to show a denial of equal protection. It is the circumstances of each case which govern" (*Griffin* v. *School Board*, 377 U. S. 218, 230).

Mr. Justice CLARK noted the greater need to provide statutory safeguards for those insane "who were not charged with criminal offense or who had never exhibited any criminal proclivities" (*Lynch* v. *Overholser*, 369 U. S. 705, 722). He also declared that "the insane who have committed acts otherwise criminal are a still greater [than dangerous civilly insane] object of concern as they have demonstrated their risk to society" (*id.*, 724).

In *Skinner*, this Court wrote:

> "[The States] may mark and set apart the classes and types of problems according to the needs and as dictated or suggested by experience. * * * Only recently we reaffirmed the view that the equal protection clause does not prevent the legislature from recognizing 'degrees of evil' [nor] 'that the Constitution does not require things which are different in fact or opinion to be treated in law as though they were the same.' * * * For a State is not constrained in the exercise of its police power to acknowledge experience which marks a class * * * for special treatment. Nor is it prevented by the equal protection clause from confining 'its restraints to those classes of cases where the need is deemed to be clearest.' * * * 'the law does all that is needed when it does all that it can, indicates a policy, applies it to all within the lines, and seeks to bring within the lines all similarly situated * * *' " (p. 540).

We submit that New York, by applying without any irrational discrimination a policy of having the criminally insane examined before retention by two court-appointed, disinterested physicians and by notice and judicial hearing, fully conforms to the guidelines set out in *Skinner*.

Petitioner's position is simply and totally unrealistic.

CONCLUSION

For the reasons stated it is respectfully submitted that the order of the Court of Appeals of the State of New York should be affirmed.

Dated: Albany, New York, November 24, 1965.

Respectfully submitted,

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August 19, 1963
CONFIDENTIAL

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D. C. I. NO. 548643X B M 5 8½ 1917

Contributors of Fingerprints	*Name and Number*	*Arrested or Received*	*Charge*	*Disposition*
•PD Greensboro NC	Johnnie Kell Baxstrom 27662	2-23-48	asslt. female W. D. W.	
•PD Baltimore Md	Johnnie Kell Baxstrom 74-320	1-12-50	2 cases Asslt & 1 Larceny	2-8-50 found NG in all cases on chg of 2 cases of asslt & cutting and larceny
•PD Greensboro NC	Johnnie Calvin Braxstrom 31134	6-28-50	affray W. D. W.	12 mos. roads
•B of I Pr Div Raleigh NC 250415	Johnnie K. Bastrom	7-1-50	affray asslt on female	12 mos. 3-26-51 disch. by exp.
•PD Kannapolis NC	Johnnie Kell Baxter 1415	12-25-51	inv.	was rel after talking to same
•PD Spartanburg SC	Johnnie Kell Baxstrom 6037	10-11-52	trespassing on Southern Railway property—Loitering	10/14/52 rel

APPENDICES
Appendix A

Contributors of Fingerprints	*Name and Number*	*Arrested or Received*	*Charge*	*Disposition*
(above rep Wash Bur)				
*SP B of I Raleigh NC 281368	Johnnie O. Braxton Camp #506 Greensboro NC	11-3-52	drunk	30 days 11-25-52 exp.
*SPr Raleigh NC 283678	Johnnie Baxstrom Camp #506 Greensboro NC	1-5-53	drunk	90 days 3-14-53 exp.
*MD H of C Jessups Md	John K. Baxter 72-369	1-25-54	vagrant	6 mos. D-6-18-54
*PD Baltimore Md	Johnnie T. Baxtrom 74-320	9-11-54	susp. of asslt & robbery	12-17-54 FG 1 yr MHC from 9-14-54
*H of C Jessups Md	Johnnie T. Baxstrom 74-854	12-17-54	robbery	1 yr exp 9-14-55
(above rep Wash Bur)				
SO Rochester NY	Johnie K. Baxstron 28576 Johnnie K. Baxstron	9-17-55	Dis. Cond.	
Monroe Co Penty Rochester NY	John Baxtron J-20340 John Keil Baxstrom	sent 9-26-55 rec 9-26-55	Dis. Cond.	6 mos. Monroe Co. disch 1/25/56
*PD, Rochester, NY		3-8-56	intox.	sen. susp. 3-10-56
*PD, Rochester, NY (rep. same)		5-22-56	intox.	sen. susp. 5-22-56
PD Syracuse NY	John Kell Baxstrom 2891-N	9-4-56	Pub. Intox.	9-5-56 30 days susp. & $10.00 or days

*PD, Rochester, NY (rep. same)		6-9-56	intox.	$5 bail forf. 6-11-56
Onondaga Co Penty Jamesville, N. Y.	John Kell Backstrom L-40821 Johnnie K. Baxstrom	sent. 9/5/56 recd. 9/5/56	publ intox.	Onon $10 or 10 days
*PD, Rochester, NY (rep. same)		10-6-58	intox.	30 ds. sen. susp 10-17-58
PD, Rochester, NY	Johnnie Kell Baxstrom al–John K. Bakstrum al–John Kell Baxtrum 33083	10-21-58	aslt. 2nd	2-3 yrs. Attica Pr. 4-9-59
*Monroe Co Penty (repeater slip)	John K Baxstrom John Baxtron J 20340	10/22/58	Public intox	60 dys (Monroe Co)
SO Rochester NY	Johnnie K Baxstron 28576	12/20/58	Assault 2nd (Indict. Warrant)	4-9-59 Attica Pr. 2-3 yrs.
Attica Prison Attica NY	John K. Baxstrom #T 16215	sent 4-9-59 recd 4-9-59	Asslt. 2nd (vio. sec. 242-4	2-0/3-0-0 2nd offender (Monroe Co.) 4-23-59 was resentenced by Monroe County to a term of 2-6-0/3-0-0 for the crime of Assault 2nd. transferred to Dannemora State Hospital 6-1-61 #6887.

*Represents notations unsupported by fingerprints.
Please advise if we can be of further assistance to you in this matter.

Appendix A-1

DANNEMORA STATE HOSPITAL

Patient's Name: John K. Baxstrom.
Id. No.: 789755.
Date of Examination: Sep 28 1965.
Ward No.: .....
Sex: Male.
Age: 47.
Civil Condition: Separated.
County of Residence: Monroe.
Address: 511 Almond Street, Syracuse, New York.
Date of Admission: June 1, 1961.
From: Attica Prison.
To what Extent was Alcohol Used? Moderate.
Drugs? No.
Criminal Offense—Describe: Assault 2°—Vio. Sec., 242-4 Penal Law.
Assaulted police officer—J. McCarthy—ice pick on face, forehand and collarbone on street—night.
Sentence: 2-6-0/3-0-0.
Date: 4/23/59.
Term Expired: Dec. 18, 1961.
Previous Criminal Record (Associated Violence?): Assault of Female, Larceny, Drunk, Vagrant, Disorderly Conduct.
History of Violence Following Incarceration: .....
Behavior During Hospitalization (Irritability, Threats, Assaults): disturbed episode on September 2, 1965.
Work Record: Good worker in O. T.
Present Physical Condition: Satisfactory except for grand Mal seizures.
Present Mental Condition (Plus I. Q. or Other Psychological Test): Well oriented but superficial and silly.

Appendix A1.

Mental Diagnosis: Psychosis due to convulsions, disorderly, epileptic deterioration.
Next of Kin: Sister: Sarah Stevenson.
Address: Route #3, Corfu, New York.
Patient's Appreciation of Relatives and Visits, Etc.: .....
Interest Shown by Relatives and Frequency of Visits or Letters: no visits, frequent letters.

John K. Baxstrom
Id. No. 78 97 55

This 47-year old Negro male was admitted to Dannemora State Hospital 6/1/61 from Attica Prison. His criminal offense reportedly involved assaulting police officer with ice pick on face, forehand and collar bone on street at night. His 2½ to 3 year sentence expired December 18, 1961. His previous criminal record includes assault of female, larceny, vagrant—disorderly conduct. He was examined for transfer to a civil state hospital by Dr. Foster November 27, 1961 and disapproved. Since that time patient has been involved in many assaults and altercations. On January 14, 1963 he struck a blind patient knocking him to the floor. On July 22, 1965 it is reported that he tried to rally other patients against officers and was placed in restraint. A similar incident is reported September 2, 1965. The diagnosis is "Psychosis due to convulsions, disorderly, epileptic deterioration." He is receiving phenobarbital and Dilantin as well as Thorazine mg. 50 t. i. d. Writs of *habeas corpus* were dismissed in 1963 and 1964. Patient denies delusions and hallucinations but said "I couldn't hold my nerves together." This man is considered unpre-

dictable and dangerous and is not suitable for transfer to a civil state hospital.

L. L. B.
L. Laramour Bryan, M. D.
Assistant Commissioner

LLB:cs

Appendix B

RELEVANT PROVISIONS OF THE NEW YORK CORRECTION LAW.

"§ 375. *Establishment and purposes of the Dannemora State Hospital*

* * * [Dannemora State] hospital shall be used for the purpose of confining and caring for such male prisoners as are declared mentally ill while confined in a state prison, reformatory, penitentiary or institution for male defective delinquents, who have been sentenced or committed thereto for a felony and others provided for under section three hundred eighty-three. The department of correction shall have the jurisdiction and control of such hospital; but it shall be subject to visitation and inspection of the head of the department of mental hygiene, by himself and his authorized representatives from the department of mental hygiene."

"§ 377. *Superintendent*

The commissioner of correction shall * * * appoint a superintendent for the Dannemora state hospital, who shall be in the competitive class of the civil service and be a well

educated physician and a graduate of an incorporated medical college of at least five years' actual experience in a hospital for the care and treatment of the mentally ill. * * *"

"§ 380. *Powers and duties of superintendent and assistants*

The superintendent shall be the chief executive officer of the hospital and shall:

1. Have the general superintendence of the buildings and grounds, * * *.

2. Give, from time to time, such orders and instructions as he may deem best calculated to insure good conduct, fidelity and economy in every department of the hospital.

3. Maintain salutary discipline among all who are employed by the institution, and enforce strict compliance with all instructions and orders given by him, and uniform obedience to all rules and regulations of the hospital."

"§ 383. *Commitment of mentally ill prisoners to the Dannemora state hospital*

1. Whenever the physician or the psychiatrist of any one of the state institutions * * * shall certify to the warden or superintendent * * * that a prisoner * * * is in his opinion mentally ill, such warden or other officer shall apply to a judge of a court of record to cause an examination to be made of such person by two examining physicians other than a physician connected with such state [institution] * * * An examining physician * * * is a physician possessing the qualifications prescribed by the provisions of section two of the mental hygiene law. Such physicians, if satisfied, af-

ter a personal examination that such prisoner is mentally ill, shall make a certificate to such effect.

* * *

5. When an order of commitment is made, such order and all papers in the proceeding * * * be filed with the department of mental hygiene * * *"

* * *

"§ 384. *Certification of mentally ill prisoners after the expiration of their terms*

1. Within thirty days prior to the expiration of the term of a prisoner confined in the Dannemora state hospital, when in the opinion of the director such prisoner continues mentally ill, the director shall* [apply to a judge of a court of record for the certification of such person as provided in the mental hygiene law for the certification of a person not in confinement on a criminal charge. The court in which such proceedings are instituted shall if satisfied that such person may require care and treatment in an institution for the mentally ill, issue an order directing that such person be committed to the custody of the commissioner of mental hygiene to be placed in an appropriate state institution of the department of mental hygiene or of the department of correction as may be designated for the custody of such person by agreement between the heads of the two departments.] ***make application for his commitment. Application for commitment shall be made to a court of record or judge thereof, as that term is defined in section two of the mental hygiene law, in the county or, if application is made to the supreme court, in***

* Bracketed matter has been replaced by italicized provisions.

the judicial district where the institution is located. The application shall be made by a petition accompanied by the certificate of two examining physicians certifying to the defendant's need for institutional care and treatment Three days notice of the application, together with a copy of the petition, shall be served upon the prisoner and upon his nearest relative or, if none, upon any known friend within the state.

If there is no demand for a hearing, the court to which application is made may, if satisfied that the prisoner is in need of institutional care and treatment immediately issue an order for the commitment of the prisoner to the custody of the commissioner of mental hygiene to be placed in an appropriate institution in the state department of mental hygiene or the state department of correction which has been approved by the heads of such departments.

If a hearing is demanded, the court shall, or it may upon its own motion, issue an order directing a hearing upon the application at a time not more than five days from the date of such order. Notice shall be served upon the parties interested in the application and upon such other persons as the court may determine. If after hearing held, the court shall grant the petition, it shall order the commitment of the prisoner to the custody of the commissioner of mental hygiene as stated above.

Commitment pursuant to this section shall be made upon blanks prescribed by the commissioner of mental hygiene and shall be deemed a civil commitment.

The costs necessarily incurred in determining the question of mental illness, including the fees of the medical

examiners, shall be a charge upon the amount appropriated for the support and maintenance of the [Dannemore] *Dannemora* state hospital, and be paid in the same manner as are other expenses of such hospital.

2. A patient committed to the custody of the commissioner of mental hygiene and placed in an appropriate institution in the department of mental hygiene or the department of correction pursuant to the provisions of this section may at any time during the period of his commitment be transferred to an appropriate state institution in the department of mental hygiene or in the department of correction, which have been designated for the custody of such patient by agreement between the heads of the two departments.

3. All persons retained in Dannemora state hospital pursuant to a valid order of retention issued in accordance with the provisions of this section prior to September first, nineteen hundred sixty-one shall be deemed to have been committed to the custody of the commissioner of mental hygiene pursuant to subdivision one of this section and shall be deemed to have been placed in the custody of Dannemora state hospital by designation of the commissioner of mental hygiene and the commissioner of correction pursuant to subdivision one of this section. Any such patient in the Dannemora state hospital may be transferred to any appropriate state institution of the department of mental hygiene or of the department of correction as may be designated for the custody of such patient by agreement between the heads of such departments.

§ 5. This act shall take effect September first, nineteen hundred sixty-five."

Appendix B.

"§ 385. *Discharge of mentally ill prisoners at expiration of terms*

* * * the director of the Dannemora state hospital may discharge any prisoner at the expiration of his sentence, and who is still mentally ill, but who has not been committed to the custody of the commissioner of metal hygiene and, in the opinion of the director, is reasonably safe to be at large. * * *."

"§ 386. *Prisoners on recovery to be transferred to prison*

Whenever any prisoner, who shall have been confined in such hospital as a mentally ill person, shall have recovered before the expiration of his sentence, and the superintendent thereof shall so certify in writing to the warden or superintendent of the institution from which such prisoner was received, or to which the commissioner of correction may direct that he be transferred, such prisoner shall forthwith be transferred to the institution from which he came * * *."

"§ 388. *Communications with patients*

No person not authorized by law or by written permission from the commissioner of correction shall visit the Dannemora state hospital, or communicate with any patient therein, without the consent of the superintendent; nor without such consent shall any person bring into or convey out of the Dannemora state hospital any letter or writing to or from any patient; nor shall any letter or writing be delivered to a patient, or if written by a patient, be sent from the Dannemora state hospital until the same shall

have been examined and read by the superintendent or some other officer of the hospital duly authorized by the superintendent. But communications addressed by such patient to the county judge or district attorney of the county from which he was sentenced, shall be forwarded, after examination by such superintendent, to their destination."

"§ 400. *Establishment and purpose of the Matteawan state hospital*

* * * Matteawan state hospital is to be used for the purpose of holding in custody and caring for such mentally ill persons held under any other than a civil process as may be committed to the said institution by courts of criminal jurisdiction, or transferred thereto by the commissioner of mental hygiene, and for such persons as may be committed thereto pursuant to the provisions of section eighty-five of the mental hygiene law, * * * and for all female convicts becoming mentally ill while undergoing sentence. When a person is committed to the Matteawan state hospital under the provisions of * * * section eighty-five of the mental hygiene law, a copy of the minutes of the proceedings instituted to determine his mental condition shall be furnished to said hospital. The department of correction shall have the jurisdiction and control of such hospital; but it shall be subject to visitation and inspection of the head of the department of mental hygiene, by himself and his authorized representations from the department of mental hygiene."

§ 402. *Superintendent*

The commissioner of correction shall, whenever there is a vacancy, appoint a medical superintendent for the Mat-

teawan state hospital, who shall be in the competitive class of the civil service and be a well-educated physician of at least five years' actual experience in a hospital for the care and treatment of the mentally ill. * * *"

"§ 405. *Powers and duties of superintendent and assistants*

The superintendent shall be the chief executive officer of the hospital and shall:

1. Have the general superintendence of the building and grounds, * * *.

2. Give, from time to time, such orders and instructions as he may deem best calculated to insure good conduct, fidelity and economy in every department of the hospital.

3. Maintain salutary discipline among all who are employed by the institution, and enforce strict compliance with all instructions and orders given by him, and uniform obedience to all the rules and regulations of the hospital."

"§ 408. *Commitment of mentally ill prisoners to the Matteawan state hospital*

1. Whenever the physician of the state prison for women, any county penitentiary, county jail or workhouse, any reformatory for women, or of a state reformatory or any other correctional institution, shall report in writing to the warden or other officer in charge thereof, that any person undergoing a sentence of one year or less or convicted of a misdemeanor, or adjudicated to be a youthful offender, wayward minor or juvenile delinquent, or any

female prisoner confined therein is, in his opinion, mentally ill, such warden or other officer shall apply to a judge of a court of record to cause an examination to be made of such person by two examining physicians, other than a physician connected with such [institution] * * *. Such physicians shall be designated by the judge to whom the application is made. An examining physician, within the meaning of this article, is a physician possessing the qualifications prescribed by the provisions of section two of the mental hygiene law. Such physicians, if satisfied, after a personal examination, that such prisoner is mentally ill, shall make a certificate to such effect.

* * *

2. Upon such certificate of the examining physicians being so made, it shall be delivered to the warden or other officer in charge, who shall thereupon apply by petition forthwith to a judge of a court of record, annexing such certificate to his petition, for an order committing such convict to the Matteawan state hospital. Upon every such application for such an order of commitment, notice thereof in writing, of at least three days, together with a copy of the petition, shall be served personally upon the alleged mentally ill person, and in addition thereto such notice and copy of the petition shall be served upon either the wife, the husband, the father or mother or other nearest relative of such alleged mentally ill person, if there be any such known relative within the state; and if not, such notice shall be served upon any known friend of such alleged mentally ill person within the state. If there be no such known relative or friend within the state, the giving of such notice shall be dispensed with, but in such case the

petition for the commitment shall recite the reasons why service of such notice on a relative or friend of the alleged mentally ill person was dispensed with, and in such case the order for commitment shall recite why service of such a notice on a relative or friend of the alleged mentally ill person was dispensed with.

3. The judge to whom such application for the commitment of the alleged mentally ill person is made may, if no demand is made for a hearing in behalf of the alleged mentally ill person, proceed forthwith on the return day of such notice to determine the question of mental illness, and if satisfied that the alleged mentally ill person is mentally ill, may immediately issue an order for the commitment of such alleged mentally ill person to the Matteawan state hospital.

4. Upon the demand for a hearing by any relative or near friend on behalf of such alleged mentally ill person, the judge shall, or he may upon his own motion where there is no demand for a hearing, issue an order directing the hearing of such application before him at a time not more than five days from the date of such order, which shall be served upon the parties interested in the application and upon such other persons as the judge, in his discretion, may name. Upon such day or upon such other day to which the proceedings shall be regularly adjourned, he shall hear the testimony introduced by the parties and shall examine the alleged mentally ill person, if deemed advisable in or out of court, and render a decision in writing as to such person's mental illness. If such judge cannot hear the application, he may, in his order directing the hearing, name some referee who shall hear the testimony

and report the same forthwith, with his opinion thereon, to such judge, who shall, if satisfied with such report, render his decision accordingly. If it be determined that such person is mentally ill, the judge shall forthwith issue his order committing him to the Matteawan state hospital. Such warden or other officer in charge shall thereupon cause such mentally ill person to be delivered to the superintendent of the Matteawan state hospital and such mentally ill person shall be received into such hospital and retained there until legally discharged. * * * If such judge shall refuse to issue an order of commitment, he shall certify in writing his reasons for such refusal.

5. When an order of commitment is made, such order and all papers in the proceeding shall be presented to the superintendent of the Matteawan state hospital at the time when the mentally ill person is delivered to such institution, and a copy of the order and of each such paper shall be filed with the department of mental hygiene and also in the office of the county clerk of the county wherein the court is located which made the order of commitment. The judge shall order all such papers so filed in the county clerk's office to be sealed and exhibited only to parties to the proceedings, or someone properly interested, upon order of the court."

"§ 409. *Disposal of mentally ill prisoners after expiration of term of imprisonment and any other patients who are neither prisoners nor charged with crimes*

Whenever any prisoner in the Matteawan state hospital shall continue to be mentally ill at the expiration of the term for which he was sentenced, he may be retained there-

in until he has recovered or is otherwise legally discharged. The superintendent of such hospital may discharge and deliver any patient whose sentence has expired, and who is still mentally ill, but who, in the opinion of the superintendent is reasonably safe to be at large, to his relatives or friends who are able and willing to comfortably maintain him, without further public charge; * * * The superintendent of such hospital may discharge any other patient who is not a prisoner, although such patient is still mentally ill, but who, in the superintendent's opinion, is reasonably safe to be at large or is recovered, * * *. Any such patient who has not recovered may, upon the order of the commissioner of correction with the consent of the commissioner of mental hygiene, be transferred to any appropriate mental institution in the department of mental hygiene as may be approved by the heads of such departments. * * * Any prisoner in the Matteawan state hospital, whose term of imprisonment has expired by commutation or otherwise, and who is not recovered may, upon an order of the commissioner of correction with the consent of the commissioner of mental hygiene, be transferred to any institution for the mentally ill."

"§ 410. *Prisoners on recovery to be transferred to prison*

Whenever any prisoner, who shall have been confined in such hospital as a mentally ill person, shall have recovered before the expiration of his sentence, and the superintendent shall so certify in writing to the agent and warden or other officer in charge of the institution, from which such prisoner was received or to which the commissioner of correction may direct that he be transferred, such prisoner

shall forthwith be transferred to the institution from which he came by the superintendent of the hospital, or if received from one of the state prisons, to such state prison as the commissioner of correction may direct * * *. Any inmate not a prisoner, held upon an order of a court or judge, in a criminal proceeding, may be discharged therefrom, upon the superintendent's certificate of recovery, made to and approved by such court or judge.

Any prisoner, before or after expiration of sentence, who, in the opinion of the superintendent, is a mental defective and who does not show evidence of mental illness, may be transferred by the commissioner of mental hygiene on an application made by the superintendent, accompanied by a certificate of mental defect made by two examining physicians, or by an examining physician and a certified psychologist, as defined in the mental hygiene law. Any inmate held on the order of a court or judge in a criminal proceeding who, in the opinion of the superintendent, is a mental defective and who does not show evidence of mental illness may be transferred by the commissioner of correction to the Eastern Correctional Institution, on the application of the superintendent accompanied by a certificate of mental defect executed by two examining physicians, or by an examining physician and a certified psychologist. When such a transfer is made the superintendent shall notify in writing the district attorney of the county from which the inmate was committed and the clerk of the court making the commitment, who shall make proper record thereof. After the transfer of any such inmate he may be returned to the said hospital upon the order of the commissioner of correction, whenever in his judgment

it shall appear that the said inmate is not a proper person to be detained in a state institution for mental defectives. The order of such commissioner directing the return of such inmate shall state the reasons for such return."

Appendix C

RELEVANT PROVISIONS OF THE NEW YORK MENTAL HYGIENE LAW.

"§ 2. *Definitions*

4a. 'Hospital' means a state hospital or psychiatric in-patient facility in the department, a psychiatric facility maintained by a political subdivision of the state for the care and treatment of the mentally ill, a general hospital * * * approved by the commissioner * * *.

10. An 'epileptic' * * * is a person suffering from epilepsy as defined in medical practice, to such an extent that for his own welfare and the welfare of others, or of the community, he requires care and treatment in an institution.

18. * * * 'examining physician' whenever used * * * by the department of mental hygiene or the department of correction, shall mean a reputable physician, duly licensed to practice medicine in this state, who shall have been in the actual practice of his profession for at least three years, and any such physician shall be authorized to make examinations as provided in [the mental hygiene law] and the correction law."

Appendix C.

"§ 3. *Department of mental hygiene; commissioner*

* * * The head of the department shall be the commissioner of mental hygiene * * *. He shall be a reputable physician, duly licensed to practice medicine in the state of New York, who shall have at least ten years' experience in the practice of his profession confined wholly or substantially to the care and treatment of persons suffering from nervous and mental disorders, of which at least five years shall have been as administrative head of a public institution for the care and treatment of persons afflicted with nervous and mental disorders * * *."

"§ 5. *Office of the department; officers and employees*

* * *

The commissioner may * * * appoint and remove in accordance with law and any applicable rules of the state civil service commission such officers and employees as he may deem necessary for the efficient administration of the department.

* * * the positions of assistant director, associate director, director and senior director in any of the institutions under the jurisdiction of the state department of mental hygiene or in Matteawan state hospital or in Dannemora state hospital may be filled by promotion from among the employees of the institutions of such state department and Matteawan state hospital and Dannemora state hospital, who possess the minimum qualifications for such promotions as prescribed by the state civil service commission. The eligible list resulting from a promotion examination * * * shall not be subdivided on the basis of the institution or department in which the persons on

such eligible list are employed, notwithstanding the fact that employees of Matteawan state hospital and Dannemora state hospital are subject to the jurisdiction of the state department of correction, but shall be certified * * * to fill vacancies in such positions in any of the institutions under the jurisdiction of the state department of mental hygiene or in Matteawan state hospital and Dannemora state hospital. The names of persons on such an eligible list shall be certified in the order of their final earned ratings on examination, without regard to the institution or department in which they are employed."

"§ 7. *General powers and duties of commissioner and department*

* * *

8. The commissioner or any authorized representative of the department may visit, examine, inspect and investigate any state institution * * * in which the mentally ill and persons suffering from any mental disease or defect receive care and treatment, and for such purpose the commissioner or such representative is empowered to subpoena witnesses, compel their attendance, administer oaths to witnesses, examine witnesses under oath, and require the production of any books or papers * * *."

"§ 10-a. *Transfer of patients*

1. A patient admitted to an institution or hospital * * * may be transferred from a hospital, * * * to any other institution or facility in the department, or to any such hospital, or to the veterans administration or the United States public health service for treatment of mental illness * * * when deemed in the interest of the patient

and of the institution or facility or such hospital affected, upon the formal order in writing of the commissioner. * * *"

"§ 11. *Control of state institutions within the department*

1. The department of mental hygiene shall have the professional jurisdiction, supervision and control of the state hospitals * * * established for the care and treatment of the mentally ill, but not including Matteawan nor Dannemora state hospitals. As to the Matteawan and Dannemora state hospitals, the powers of the department shall be limited to aiding the head of the department of correction in exercising his powers and duties under the constitution, and under sections twenty, twenty-one and twenty-three * * *, and provisions of law expressly applying to such hospitals. * * *"

"§ 15. *Regulations in respect to the correspondence of patients*

The commissioner shall make such regulations in regard to the correspondence of the patients in institutions and hospitals as in his judgment will promote their interests * * *. All such patients shall be allowed to correspond without restriction with any public official and with the mental health information service."

"§ 20. *Record of patients and inmates*

The department shall keep in its office * * * such information from the case record of each patient * * * admitted to an institution within the department or to a hospital, as the rules and regulations of the commissioner

may prescribe or as may be required by article five of this chapter, * * * and reports of examinations of others made by any division or bureau of the department. The record of each patient shall show:

1. The name, residence, sex, age, nativity, occupation, civil condition and date of admission of every patient in custody in the several institutions for the care and treatment of mentally ill, epileptic and mental defective persons in the state."

"§ 21. *Institutions and hospitals to furnish information to department*

* * * the authorities of the several institutions and hospitals * * * shall furnish to the department the facts mentioned in [section twenty] and such other obtainable facts * * * as the department may, from time to time, in the just and reasonable discharge of its duties, require of them, with the opinion of the director thereon, if requested. The director of any hospital * * * must * * * after the admission of a person * * * cause a true copy of the application and medical certificate on which such person shall have been received * * * to be made and forwarded to the department; and when a patient shall be discharged, transferred or shall die * * * such director shall send the information to the department * * *"

"§ 23. *Deportation and removal of alien and non-resident mentally afflicted persons; powers and duties of the commissioner.*

* * *

5. The commissioner or his representative upon the request of any mentally ill * * * or epileptic person, or

upon the written consent of his relatives, legal representatives or qualified friends, may remove such patient * * * to any other state or place in which he may properly belong."

"§ 70. *Admission procedures; general requirements*

1. Any person alleged to be mentally ill to a degree which warrants hospitalization in a hospital * * * may be admitted to and received and retained as a patient in a hospital by compliance with any one of the following admission procedures * * *:

* * *

(c) on certificates of two physicians.

(d) on certificate of one physician.

* * *

2. The commissioner of mental hygiene shall prescribe and furnish forms for use in procedures for admission and admission shall be had only upon such forms. A mentally ill person shall be admitted only to a hospital or facility designated by the commissioner, or the jurisdiction of the department, pursuant to administrative order authorized by law or pursuant to authorization or order of a court of competent jurisdiction or to the Matteawan state hospital, or Dannemora state hospital * * *. No * * * epileptic shall be received and retained in a state hospital unless such person shall be mentally ill.

* * *

4. Certificates * * * must show that the person is mentally ill and, if required to be made by one or two examining physicians, that such physicians made an examination

of the person alleged to be mentally ill within ten days next before and inclusive of the date of admission unless otherwise provided * * *. The date of the certificate shall be the date of such examination. * * * All certificates shall contain the facts and circumstances upon which the judgment of the physicians is based and shall show that the condition of the person examined is such as to require care and treatment in a hospital and such other information as the commissioner may by regulation require."

"§ 72. *Admission on certificate of two physicians*

1. The director of a hospital may receive and retain therein as a patient any person alleged to be mentally ill and suitable for care and treatment upon the certificate or certificates of two examining physicians accompanied by an application for the admission of such person executed within ten days prior to such admission * * * in the case of the admission of any such person to a hospital operated by the state or a political subdivision thereof, by the director of such hospital. Such application shall contain a statement of the facts upon which the allegation of mental illness and need for care and treatment are based, * * *. The director of the hospital where such person is brought shall cause such person to be examined forthwith by a staff physician of such hospital other than the original examining physicians whose certificate or certificates accompanied the application, and if such person is found to be in need of care and treatment he may be admitted thereto as a patient as herein provided. Such original examining physician may be the director or staff member of a hospital operated or maintained by the state or a

political subdivision thereof to which it is proposed to admit such person, provided, however, that in case of admission of such person to a hospital operated by the state only one such examining physician may be on the staff thereof, and in the case of admission of such person to a hospital operated or maintained by a political subdivision of the state both such examining physicians may be on the staff thereof * * *.

2. The director shall cause written notice of such application to be given the person alleged to be mentally ill not later than five days, excluding Sunday and holidays, after such admission and such notice shall set forth such person's rights under the provisions of this section. At the same time such notice shall also be given to the mental health information service and personally or by mail to the nearest relative of the person alleged to be mentally ill other than the petitioner if there be any such person known to the director, and to as many as three additional persons if designated in writing by the person alleged to be mentally ill to receive such notice.

3. If at any time prior to the expiration of sixty days from the date of admission of such patient, he or any relative or friend or the mental health information service gives notice in writing of request for hearing on the question of need for hospitalization to the director, a hearing shall be held as herein provided. The patient or person requesting a hearing on behalf of the patient may designate the county where the hearing shall be held, which shall be either in the county where the hospital is located, the county of the patient's residence or the county in which the hospital to which the patient was first admitted is located and such hearing shall be held in the county so

designated, subject to application by any interested party, including the director, for change of venue to any county because of the convenience of parties or witnesses or the condition of the patient. It shall be the duty of the director upon receiving notice of such request for hearing to forward forthwith a copy of such notice with a record of the patient as defined and described in section twenty of this chapter to a court of record in the county designated by the applicant, if one be designated, or if no designation be made, then to a court of record in the county where such hospital is located. A copy of such notice and record shall "also" be given the mental health information service. The court which receives such notice shall fix the date of such hearing at a time not later than five days from the date such notice is received by the court and cause the patient or other person requesting the hearing, the director, the mental health information service and such other persons as the court may determine to be advised of such date. Upon such date, or upon such other date to which the proceeding may be adjourned, the court shall hear testimony and examine the person alleged to be mentally ill, if it be deemed advisable in or out of court, and shall render a decision in writing as to the mental illness and the need for retention of the patient. If it be determined that the patient is mentally ill and in need of retention for care and treatment, the court shall forthwith issue an order authorizing the retention of such patient for care and treatment in the hospital for a period not to exceed six months from the date of the order or if the patient is in "a" psychiatric hospital maintained by a political subdivision of the state or in a general hospital the court may order the patient transfered to the jurisdiction of the department for

retention in a hospital operated by the state designated by the commissioner or to a licensed private institution for retention therein for a period not to exceed six months from the date of such order. If, however, it appears that such mentally ill person is harmless and his relatives or a committee of his person are willing and able properly to care for him, at some place other than a hospital, then, upon their written consent, the court may order the transfer of the patient to the care and custody of such relatives or such committee. If the court cannot hear the application it may appoint a referee to hear and report forthwith the testimony with his opinion thereon, to the court, which if satisfied with such report shall issue its order in accordance with this subdivision.

4. If the court shall order the release of the patient, it shall state in writing its reasons for such order and such patient shall forthwith be released.

5. The department or the director of the hospital authorized to retain or receive and retain such patient, as the case may be, shall be immediately furnished with a copy of the order of the court and, if a transfer is ordered, shall immediately make provisions for the transfer of such patient."

"§ 73. *Court authorization to retain a patient*

1. If no application for a hearing shall have been made by a patient or by anyone on behalf of such patient within sixty days of the initial admission of such patient pursuant to this article, and if the director shall determine that the condition of such patient requires his continued retention in a hospital, he shall, if such patient does not

agree to remain in such hospital as a voluntary or informal patient, prior to the expiration of sixty days from the initial admission of such patient, apply to a court of record in the county where the hospital is located for an order authorizing continued retention of such patient or for his transfer to an appropriate hospital and continued retention. The director shall cause written notice of such application to be given the patient and a copy thereof shall be given personally or by mail to the persons required by section seventy-two of this article to be served with notice of such patient's initial admission and to the mental health information service. If no application is made for a hearing on behalf of the patient within five days, excluding Sunday and holidays, from the date such notice of such application was given such patient, and if the mental health information service has not requested a hearing, the court receiving the application may, if satisfied that the patient requires continued retention for care and treatment, or transfer and continued retention, immediately issue an order authorizing continued retention of such patient in such hospital for a period not to exceed six months from the date of the order or if such patient is in a psychiatric hospital operated by a political subdivision of the state or in a general hospital, such order may direct the transfer of such patient to the jurisdiction of the department for retention in a hospital operated by the state or to a licensed private institution, to be retained therein for a period not to exceed six months from the date of such order.

2. Upon the demand of the patient or of anyone on his behalf or upon request of the mental health information service, the court shall, or may on its own motion,

fix a date for the hearing of the application, in like manner as is provided for hearings in subdivision three of section seventy-two of this article. The provisions of such subdivision shall apply to the procedure for obtaining and holding a hearing and to the granting or refusal to grant an order of retention by the court, except that the patient shall not have the right to designate initially the county in which the hearing shall be held.

3. If the director of a hospital in which a patient is retained pursuant to section seventy-two or subdivisions one or two of this section shall determine that the condition of such patient requires his further retention in a hospital, he shall, if such patient does not agree to remain in such hospital as a voluntary or informal patient, apply during the period of retention authorized by the last order of the court, to a court of record in the county where the hospital is located, for an order authorizing further continued retention of such patient. The procedures for obtaining any order pursuant to the subdivision shall be in accordance with the provisions of subdivisions one and two of this section. The period for continued retention pursuant to the first order obtained under this subdivision shall authorize further continued retention of the patient for not more than one year and the period for the further continued retention of the patient authorized by any subsequent order under this subdivision shall be for periods not to exceed two years each."

"§ 74. *Review of court authorization to retain a patient*

If a person whose retention, continued retention or transfer and continued retention has been authorized pur-

suant to this article, or any relative or friend in his behalf, be dissatisfied with any such order he may, within thirty days after the making of any such order, obtain a rehearing and a review of the proceedings already had and of such order, upon a petition to a justice of the supreme court other than the judge or justice presiding over the court making such order, who shall cause a jury to be summoned as in the case of proceedings for the appointment of committee for a mentally ill person where the question of fact arising upon the competency of the person is tried by a jury, and shall try the question of the mental illness of the patient so authorized to be retained, in the same manner as provided in said proceedings. Any such patient or the person applying on his behalf for such review may waive the trial of the fact by a jury and consent in writing to trial of such fact by the court. If such petition for rehearing and review be made by any other than the person so authorized to be retained or the father, mother, husband, wife or child of such person or the person with whom the person so authorized to be retained was residing at the time of the making of such order authorizing continued retention or accustomed to reside, before such rehearing or review shall be had, the petitioner shall make a deposit or give a bond, to be approved by a justice of the supreme court, for the payment of the costs and expenses of such rehearing, review and determination of the question of mental illness by a jury as aforesaid, if the order authorizing continued retention is sustained. If the verdict of the jury, or the decision of the court when jury trial has been waived, be that such person is not mentally ill, the justice shall forthwith discharge him, but if the verdict of the jury, or the decision

of the court where a jury trial has been waived, be that such person is mentally ill, the justice shall certify that fact and make an order authorizing continued retention under the original order. Such order shall be presented, at the time of authorization of continued retention of such mentally ill person, to, and filed with, the director hospital in which the mentally ill person is authorized to be retained, and a copy thereof shall be forwarded to the department by such director and filed in the office thereof. Proceedings under the order shall not be stayed pending an appeal therefrom, except upon an order of a justice of the supreme court, and made upon a notice and after a hearing, with provisions made therein for such temporary care or confinement of the alleged mentally ill person as may be deemed necessary. If a judge or justice shall refuse to grant an application for an order authorizing continued retention of a mentally ill person proved to be dangerous to himself or others, he shall state his reasons for such refusal in writing, and any person aggrieved thereby may obtain a rehearing and review and the determination of the question of mental illness by a jury in the same manner and under like conditions as from an order authorizing continued retention."

"§ 75. *Admission on certificate of one physician*

The director of a hospital may receive and retain therein as a patient any person alleged to be mentally ill and suitable for care and treatment, who does not object thereto, upon an application made as provided in section seventy-two of this article, accompanied by a certificate of one examining physician, provided, however, that the need for hospitalization shall be confirmed by the hospital.

Within fifteen days after such admission, if such patient is to be retained for care and treatment beyond such time, and such patient does not agree to remain in such hospital as a voluntary or informal patient, the certificate of another examining physician, supporting the application, shall be filed with the hospital. Such other examining physician may be a physician on the staff of a hospital other than a licensed private institution. From the time of his admission under this section the retention of such patient for care and treatment shall be subject to the provisions for notice, hearing, review and judicial approval of continued retention, or transfer and continued retention as provided in sections seventy-two, seventy-three and seventy-four of this article provided that for the purposes of such provisions the date of admission of the patient shall be deemed to be the date when the patient was first received in the hospital under this section."

"§ 85. *Proceedings for certification to Matteawan state hospital of certain dangerous mentally ill patients of state hospitals in the department*

1. The director of any state hospital, upon order of the commissioner, upon ascertaining that any person, duly admitted to and a patient of such hospital as a mentally ill person, has committed or is liable to commit an act or acts which if committed by a sane person would constitute homicide or felonious assault, or is so dangerously mentally ill that his presence in such a hospital is dangerous to the safety of other patients therein, the officers or employees thereof, or to the community, shall forthwith make application to a court of record or judge thereof within the county wherein such state hospital is located or a justice

of the supreme court in the judicial district wherein such county is located to cause an examination to be made of such person by two examining physicians, other than a physician connected with such state hospital. Such physicians shall be designated by the judge to whom the application is made. Such physicians, if satisfied, after a personal examination, that such patient has committed or is liable to commit an act or acts which if committed by a sane person would constitute homicide or felonious assault, or is so dangerously mentally ill that his presence in such hospital is dangerous to the safety of other patients therein, the officers or employees thereof, or to the community, shall make a certificate to such effect.

2. Upon such certificate of the examining physicians being so made, it shall be delivered to the director or other officer in charge who shall thereupon apply by petition forthwith to a judge of a court of record, annexing such certificate to his petition, for an order certifying such patient to the Matteawan state hospital. Upon every such application for such order of certification, notice thereof in writing, of at least three days together with a copy of the petition, shall be served personally upon the alleged dangerously mentally ill person, and in addition thereto such notice and a copy of the petition shall be served upon either the wife, husband, the father or mother or other nearest relative of such alleged dangerously mentally ill person, if there be any such known relative within the state; and if not, such notice shall be served upon any known friend of such alleged dangerously mentally ill person within the state. If there be no such known relative or friend within the state, the giving of such notice shall be dispensed with, but in such case the

petition for the certification shall recite the reasons why service of such notice on a relative or friend of the alleged dangerously mentally ill person was dispensed with, and in such case the order for certification shall recite why service of such a notice on a relative or friend of the alleged dangerously mentally ill person was dispensed with.

3. The judge to whom such application for the certification of the alleged dangerously mentally ill person may, if no demand is made for a hearing on behalf of the alleged dangerously mentally ill person, proceed forthwith on the return date of such notice to determine the question of the dangerous mental illness of such person, and if satisfied that the alleged dangerously mentally ill person is dangerously mentally ill, may immediately issue an order for the certification of such alleged dangerously mentally ill person to the Matteawan state hospital.

4. Upon the demand for a hearing by any relative or near friend on behalf of such alleged dangerously mentally ill person, the judge shall, or he may upon his own motion where there is no demand for a hearing, issue an order directing the hearing of such application before him at a time not more than five days from the date of such order, which shall be served upon the parties interested in the application and upon such other persons as the judge, in his discretion, may name. The person whose dangerous mental illness is being inquired into may be represented by counsel in any such proceedings. Upon such day or upon such other day to which the proceedings shall be regularly adjourned, he shall hear the testimony introduced by the parties and shall examine the alleged dangerously mentally ill person, if deemed advisable in or out of court, and render

a decision in writing as to such person's dangerous mental illness. If such judge cannot hear the application, he may, in his order directing the hearing, name some referee who shall hear the testimony and report the same forthwith, and his opinion thereon, to such judge, who shall, if satisfied with such report, render his decision accordingly. If it be determined that such person is dangerously mentally ill, the judge shall forthwith issue his order committing him to the Matteawan state hospital. Such director or other officer in charge shall thereupon cause such dangerously mentally ill person to be delivered to the superintendent of the Matteawan state hospital and such dangerously mentally ill person shall be received into such hospital and retained there until he is no longer dangerous to safety whereupon he may be released as provided in the correction law or he may be transferred to any hospital in the department upon the order of the commissioner. Such director or other person in charge before delivering such dangerously mentally ill person shall see that he is bodily clean. If such judge shall refuse to issue an order of certification, he shall certify in writing his reasons for such refusal.

5. Certification to Matteawan state hospital pursuant to this section shall not be deemed as or received in any court in evidence of commission of a crime by the person so certified, nor shall such certification be deemed or considered a certification as punishment for a crime."

"§ 86. *Investigation into the care and treatment of the mentally ill*

When the commissioner has reason to believe that any person alleged or adjudged to be mentally ill is wrongfully

deprived of his liberty, or is cruelly, negligently or improperly treated, or inadequate provision is made for his skillful medical care, proper supervision and safe keeping, he may ascertain the facts, or may order an investigation of the facts by the department. He, or the representative of the department conducting the proceeding, may issue compulsory process for the attendance of witnesses and the production of papers, and exercise the powers conferred upon a referee in the supreme court. If the commissioner deem it proper, he may issue an order directed to any or all institutions, directing and providing for such remedy or treatment, or both, as shall be therein specified.

If such order be just and reasonable, and be approved by a justice of the supreme court, who may require notice to be given of the application for such approval, it shall be binding upon any and all institutions and persons to which it is directed, and any willful disobedience of such order shall be a criminal contempt and punishable as such. Whenever the commissioner shall undertake an investigation into the general management and administration of any institution for the mentally ill, he may give notice to the attorney-general of any such investigation, and the attorney-general shall appear personally or by deputy and examine witnesses who may be in attendance. The commissioner, or his representatives from the department, may at any time visit and examine the patients of any county or city public home, to ascertain if mentally ill persons are kept therein."

"§ 87. *Discharge of patients*

1. The director of a hospital, * * * may discharge any patient, except one held upon an order of a court or judge

having criminal jurisdiction in an action or proceeding arising out of a criminal offense at any time, * * *:

* * *

3. Discharge of certain patients committed under correction law. The commissioner shall discharge any patient committed to his custody pursuant to section three hundred eighty-four of the correction law who, in his judgment, is recovered. The commissioner shall also discharge any such patient who is not recovered, but whose discharge, in the judgment of the commissioner, will not be detrimental to the public safety or welfare, or injurious to the patient. When the commissioner is unwilling upon request to certify to the discharge of a patient committed to his custody pursuant to section three hundred eighty-four of the correction law, and so certifies in writing, giving his reasons therefor, such patient may make application for his discharge to a court of record in the judicial district of the institution in which the patient is placed. Upon a written finding by the court that there is reasonable cause to believe that the application has merit, the court may appoint two qualified disinterested psychiatrists to examine such patient, to report within sixty days, or such longer period as the court determines to be necessary for the purpose, their opinion as to his mental condition. The court may call for the presentation of such other evidence, written or oral, as it may consider necessary for the proper disposition of the application. If, on the basis of the report of such psychiatrists and such other evidence, the court is satisfied that the discharge or conditional release of such patient will not be detrimental to the public safety or welfare or injurious to the patient, it shall order his discharge,

or his release on such conditions as it shall determine to be necessary. If, within five years after the conditional release of any such patient, the court shall determine that for the safety of such person or the safety of others his conditional release should be revoked, the court shall forthwith order him recommitted to the custody of the commissioner of mental hygiene and such recommitment shall be deemed to be a commitment to the custody of the commissioner of mental hygiene pursuant to section three hundred eighty-four of the correction law. All patients suitable for discharge or release under this subdivision may be granted a convalescent status in accordance with rules prescribed by the commissioner."

"§ 88. *Mental health information service*

There is hereby created and established a mental health information service of the state of New York in each judicial department of the supreme court. The head of such service in each judicial department, and such assistants and such staff as may be necessary, shall be appointed and be removable by the presiding justice of the appellate division of such judicial department. Appointments and transfers to such service shall comply with the provisions of the civil service law and except for the head of such service in each judicial department all such positions shall be in the competitive class of the civil service. Standards for qualifications of the personnel in such service having duties requiring direct contact with patients and their immediate families shall be established in agreement with the commissioner. The mental health information service in each judicial department of the state shall perform the following duties subject to directions made and rules and

regulations promulgated by the presiding justice of the appellate division of such department;

(a) study and review the admission and retention of involuntary patients;

(b) inform such patients and in proper cases others interested in the patients' welfare concerning procedures for admission and retention and of the patients' right to have judicial hearing and review, to be represented by legal counsel and to seek independent medical opinion;

(c) in any case before a court, to assemble and provide the court with all the relevant information as to the patient's case, his hospitalization, his right to discharge, if any, including information from which the court may determine the need, if any, for the appointment of counsel for the patient or the obtaining of additional psychiatric opinion;

* * *

(e) provide such services and assistance to patients and their families and to the courts having duties to perform relating to the mentally ill or alleged mentally ill as may be required by a judge or justice thereof and in accordance with the regulations of the presiding justice of the appellate division of each such judicial department."

"§ 100. *Jurisdiction over incompetents and patients*

* * * 'patient' shall mean a person who has been lawfully committed or admitted to any institution in the department of mental hygiene or to any institution for the mentally ill or mentally defective in the department of correction. * * *"

Appendix C.

"§ 426. *Habeas corpus*

Any one hospitalized as a mentally ill person * * * is entitled to a writ of *habeas corpus,* upon a proper application made by him or some relative or friend in his behalf. Upon the return of such writ, the fact of his mental illness * * * shall be inquired into and determined. The medical or other history of the patient, as it appears in the institutional or hospital record, shall be given in evidence, and the director of the institution or hospital wherein such person is held in custody, or hospitalized and any proper person, shall be sworn touching the condition of such person. Where a second or subsequent application is made for the discharge from custody or from a hospital of the same person, any party to the proceeding may introduce in evidence any testimony, in relation to the condition of such patient, received upon any formal hearing or trial, together with all the exhibits introduced in evidence upon such hearing or trial in connection with such testimony without calling the witnesses who gave such testimony, such evidence to have the same force and effect as if witnesses had been called. In the case of an allegedly mentally ill person such application may be to a court of record in the county from which he was admitted or in the county in which the hospital is located. Any interested party, including the hospital may apply to change the place of hearing the application to any other county in order to serve the convenience of the parties or the condition of the patient. The director shall forthwith notify the mental health information service of any such application for a writ and provide it with information as to the case and nature of hospitalization and the condition of the patient."

Appendix D

(Descriptive Pamphlet Distributed to All Visitors)

DANNEMORA STATE HOSPITAL

Dannemora State Hospital was opened in 1900, as
of the New York State Department of Correction, and
ceives convicted male felons who became mentally ill w
serving their sentences. Patients are received from
the prisons in New York State, as well as Eastern
rectional Institution at Napanoch, Elmira Reformatory
Elmira Reception Center.

Attention is called to the fact that this is a hospital
not a prison. Within limits of necessary security, ev
effort is made to maintain an atmosphere which will
the patients recover from their mental illnesses. For
most part, they are cared for on open dormitories, and
in individual cells as identified with a prison.

Upon recovery from mental illness, the patient is tr
ferred back to prison, or to the institution from which
was originally transferred.

Under a law which became effective in 1961, a patient
has not recovered by the time his sentence expires, is c
mitted to the custody of the Commissioner of the Dep
ment of Mental Hygiene. He is retained here, howe
until he is sufficiently well to be considered for transfe
one of the hospitals in that Department, such as St. L
rence State Hospital, Marcy State Hospital, etc.

Occasionally, patients are also considered, after the
piration of their sentences, for transfer to Veterans
pitals, or to hospitals in their home states. Considera
is also given to release to the custody of relatives if

patient's condition is satisfactory, proper care is assured, etc.

We utilize all the recognized forms of treatment, including individual and group psychotherapy, group counseling, shock therapy, occupational therapy, and recreational therapy. We also make extensive use of tranquillizing drugs with excellent results. These drugs result in recovery of many of our patients, while others have been greatly improved in their behavior pattern and habits. We expend $27,500 a year for these medications.

Through successful application of modern treatment methods, our hospital has shown a steady increase in discharge rate. In 1964, we admitted 160 patients and discharged over 180. Our current population is about 1070.

The institution lands consist of the farm (operation of which was discontinued in 1961), the main hospital tract of 134 acres and adjoining wood and pasture lands which bring the total to 1339 acres.

The total monies spent for operating the institution last year, excluding Capital Construction, was $3,533,452. This is a total annual per capita cost, based on 1078 patients of $3,309 of which $2,882 was Personal Service, $201 Food, $23.00 Clothing, $32.00 Medical, $12.00 Repairs, etc.

We have a total of 482 payroll items, 379 of which are uniformed employees. Our annual Personal Service expenditure is now over $3,600,000. Payrolls (bi-weekly) average about $123,500.

The daily Food cost per patient is about 55¢.

Appendix E

DANNEMORA STATE HOSPITAL

ADMINISTRATION

Director	1
Assistant Director	2

MEDICAL

Supervising psychiatrist	3
Senior Psychiatrist	2
Senior Dentist	1
Associate Clinical Psychologist	1
Senior X-Ray Technician	1
Pharmacist	1
Senior Laboratory Technician	1
Correction Hospital Head Nurse	7

OCCUPATIONAL THERAPY

Senior Occupational Therapist	1
Occupational Therapist	2
Occupational Therapy Instructor	1
Occupational Therapy Aides	1

SUPERVISION OF PATIENTS

Security Supervisor	1
Correction *Hospital* Chief Officer	1
Correction *Hospital* Supervising Officer	5
Correction *Hospital* Charge Officers	25
Correction *Hospital* Senior Officers	52
Correction *Hospital* Officers	291

Please note that "Hospital" is emphasized in the title structure.

Appendix E.

To be contrasted in the Prisons with Captains, Lieutenants, Sergeants and Correction Officers.

Please note job specification comparisons from attached. These are prepared by the New York State Department of Civil Service. Since the Prison series was printed, titles of Principal Keeper and Assistant Principal Keeper have been changed to Deputy Warden and Assistant Deputy Warden.

Appendix F

STATE OF NEW YORK—DEPARTMENT OF CORRECTION

DANNEMORA STATE HOSPITAL, Dannemora, N. Y.

PER CAPITA COST STATEMENT, showing the population, appropriations, expenditures, unexpended balances and consumption for the fiscal year APRIL 1, 1964 to MARCH 31, 1965

Classification	*Appropriations*	*Expenditures*	*Balances*	*Consumption*	*Per Capita Cost (Consumed Basis)* *Per diem*	*Per ann*
PERSONAL SERVICE MAINT. & OPER.	3,110,183.00	3,106,345.80	3,837.20	3,106,345.80	7.8947	2,881.9
Travel	1,445.00	1,427.57	17.43	1,425.40	.0036	1.3
Automotive	1,005.00	999.18	5.82	973.33	.0025	.9
General Office	2,025.00	2,023.52	1.48	1,944.83	.0049	1.8
Printing & Adv.	625.00	623.77	1.23	520.46	.0013	.4
Communication	7,250.00	7,135.62	114.38	6,702.99	.0170	6.2
Fuel	102,710.00	102,486.94	223.06	102,412.45	.2603	95.0
					(.5508)	(201.0
Food	190,915.00	190,731.92	183.08	221,760.26	.5636	205.7
Clothing	23,240.00	23,238.33	1.67	24,500.54	.0623	22.7
Household	17,370.00	17,366.70	3.30	17,359.73	.0441	16.1
Medical	34,650.00	34,648.02	1.98	34,574.51	.0879	32.0
Farm & Garden	750.00	748.78	1.22	888.47	.0023	.8
Special Supplies	8,975.00	8,967.60	7.40	9,171.18	.0233	8.5
Repairs	11,750.00	11,748.92	1.08	13,321.86	.0339	12.3
Spec Dept Chges	135.00	47.00	88.00	47.00	.0001	.0
Equip-Rep'l	23,390.46	23,390.46	–0–	23,390.46	.0594	21.7
Equip-Add'l	1,521.77	1,521.77	–0–	1,521.77	.0039	1.4
Total M. & O.	427,757.23	427,106.10	651.13	460,515.24	1.1704	427.2
GRAND TOTAL	3,537,940.23	3,533,451.90	4,488.33	3,566,861.04	9.0651	3,308.7

Average inmate population 4/1/64 to 3/31/65	1,078
Average number of personnel receiving maintenance	25
Actual inmate population on March 31, 1965	1,067

Personnel: Maintenance 477

DANNEMOR

Appendix F.

STATE OF NEW YORK—DEPARTMENT OF CORRECTION

MATTEAWAN STATE HOSPITAL, Beacon, N. Y.

PER CAPITA COST STATEMENT, showing the population, appropriations, expenditures, unexpended balances and consumption for the fiscal year APRIL 1, 1964 to MARCH 31, 1965

Classification	*Appropriations*	*Expenditures*	*Balances*	*Consumption*	*Per Capita Cost (Consumed Basis) Per diem*	*Per annum*
Personal Service Maint. & Oper.	6,233,730.00	6,227,702.88	6,027.12	6,227,702.88	9.4266	3,440.72
Travel	5,635.00	4,072.60	1,562.40	4,092.46	.0062	2.26
Automotive	6,155.00	5,856.45	298.55	5,818.67	.0088	3.21
General Office	3,800.00	3,775.26	24.74	3,806.27	.0058	2.10
Printing & Adv.	2,725.00	2,654.54	70.46	2,666.94	.0040	1.47
Communication	15,340.00	15,309.23	30.77	15,274.29	.0231	8.44
Fuel	208,015.00	201,451.72	6,563.28	201,315.60	.3047	111.22
					(.5596	204.26)
Food	279,800.00	278,549.06	1,250.94	381,361.37	.5772	210.70
Clothing	42,340.00	42,203.69	136.31	42,349.91	.0641	23.40
Household	30,575.00	30,559.01	15.99	34,529.50	.0523	19.08
Medical	51,950.00	51,646.32	303.68	51,638.03	.0782	28.53
Farm & Garden	54,335.00	54,063.79	271.21	973.68	.0015	.54
Special Supplies	7,870.00	7,603.31	266.69	7,089.29	.0107	3.92
Repairs	28,495.00	28,426.83	68.17	28,528.45	.0432	15.76
Spec Dept Chges	150.00	127.37	22.63	127.37	.0002	.07
Equip-Rep'l	15,079.67	15,079.67	–0–	15,079.67	.0228	8.33
Equip-Add'l	6,255.46	6,255.46	–0–	6,255.46	.0095	3.46
Total M. & O.	758,520.13	747,634.31	10,885.82	800,906.96	1.2123	442.49
Grand Total	6,992,250.13	6,975,337.19	16,912.94	7,028,609.84	10.6389	3,883.21

Average inmate population 4/1/64 to 3/31/65 1,810
Average number of personnel receiving maintenance 57
Actual inmate population on March 31, 1965 1,735

Personnel: Maintenance 1,000

MATTEAWAN

Appendix F.

STATE OF NEW YORK—DEPARTMENT OF CORRECTION

CLINTON PRISON, Dannemora, N. Y.

PER CAPITA COST STATEMENT, showing the population, appropriations, expenditures, unexpended balances and consumption for the fiscal year APRIL 1, 1964 to MARCH 31, 1965

Classification	*Appropriations*	*Expenditures*	*Balances*	*Consumption*	*Per Capita Cost (Consumed Balances)* *per diem*	*Per annum*
PERSONAL SERVICE MAINT. & OPER.	2,900,250.00	2,897,756.66	2,493.34	2,897,756.66	3.7986	1,38
Travel	3,250.000	2,696.95	553.05	2,605.56	.0034	
Automotive	5,715.00	5,692.90	22.10	4,849.79	.0063	
General Office	2,845.00	2,840.71	4.29	2,655.59	.0035	
Printing & Adv.	3,140.00	3,138.82	1.18	3,022.04	.0040	
Communication	14,400.00	14,279.89	120.11	13,778.03	.0181	
Fuel	158,580.00	158,539.90	40.10	154,732.42	.2028	7
					(.5391)	(19
Food	296,890.00	296,684.25	205.75	412,038.77	.5401	19
Clothing	89,745.00	89,721.96	23.04	88,739.50	.1163	4
Household	32,740.00	32,371.58	368.42	31,339.97	.0411	1
Medical	31,720.00	31,630.41	89.59	31,436.52	.0412	1
Farm & Garden	67,230.00	66,920.61	309.39	283.07	.0004	
Special Supplies	26,590.00	25,423.27	1,166.73	24,150.83	.0316	1
Repairs	25,250.00	25,233.57	16.43	24,771.27	.0325	1
Rentals	2.00	2.00	–0–	2.00	–0–	
Equip-Rep'l	15,379.43	15,379.43	–0–	15,379.43	.0202	
Equip-Add'l	1,593.82	1,593.82	–0–	1,593.82	.0021	
MAINT. UNDIST.						
Inmates' Wages	35,957.91	35,957.91	–0–	35,957.91	.0471	1
Total M. & O.	811,028.16	808,107.98	2,920.18	847,336.52	1.1107	40
GRAND TOTAL	3,711,278.16	3,705,864.64	5,413.52	3,745,093.18	4.9093	1,79

Average inmate population 4/1/64 to 3/31/65 2,090
Average number of personnel receiving maintenance 4
Actual inmate population on March 31,1965 2,087

Personnel: Maintenance 459; Industry 24

CLINT

Appendix F.

STATE OF NEW YORK—DEPARTMENT OF CORRECTION

1964-1965
PER CAPITA COST STATEMENT

Institution	*Food*	*Clothing*	*Household*	*Medical*	*Total M & O*	*Personal Service*	*Grand Total*
Attica Prison	189.57	35.83	16.03	8.60	376.23	1,358.53	1,734.76
Auburn Prison	187.35	31.92	17.24	8.66	380.07	1,500.88	1,880.95
Clinton Prison	197.15	42.46	14.99	15.04	405.42	1,386.49	1,791.91
Green Haven Prison	187.16	29.75	15.67	5.36	385.72	1,267.51	1,653.23
Sing Sing Prison	192.03	48.28	13.81	12.75	447.62	1,618.91	2,066.53
Wallkill Prison	189.52 (201.05)*	33.97	20.64	15.68	520.29	2,643.46	3,163.75
Dannemora St. Hosp.	205.72 (204.26)*	22.73	16.10	32.07	427.20	2,881.58	3,308.78
Matteawan St. Hosp.	210.70 (183.60)*	23.40	19.08	28.53	442.49	3,440.72	3,883.21
Albion St. Tr. School	204.18 (202.67)*	34.05	29.95	37.52	704.47	4,882.03	5,586.50
Westfield State Farm	231.30	31.24	25.68	48.26	700.75	3,977.80	4,678.55
Elmira Reformatory	184.07	33.10	20.07	8.49	467.40	1,827.56	2,294.96
Reception Center	184.09	24.93	15.12	13.54	312.13	1,951.40	2,263.53
Great Meadow Corr.	192.06	29.68	15.20	7.31	404.94	2,072.99	2,477.93
Eastern Corr. Inst.	193.30	40.11	17.90	6.57	436.41	1,908.10	2,344.51
NYS Vocational Inst.	190.78	38.58	21.91	11.69	481.45	2,541.79	3,023.24
Woodbourne Corr. Inst.	190.96	34.36	20.54	7.03	483.01	2,607.78	3,090.79
Camp Pharsalia	336.61	59.45	26.20	6.43	785.84	2,241.60	3,027.44
Camp Monterey	337.84	50.85	26.08	4.59	781.18	2,344.48	3,125.66
Camp Summit	356.79	72.80	28.67	15.35	763.03	2,113.64	2,876.67
Camp Georgetown	346.10	61.81	20.36	5.48	737.16	1,977.12	2,714.28
Average 1964-65	196.78	34.53	17.44	13.99	715.28	2,098.18	2,813.46
Average 1963-64	190.88	34.87	17.05	13.38	668.76	2,019.85	2,688.61
Comparison of current year with last year	+3.1%	—1.	+2.3	+4.5	+6.9	+3.9	+4.6%

*Includes personnel and inmates fed.

All other costs are based upon average inmate population only.

CLASSIFICATION COSTS

STATE OF NEW YORK—DEPARTMENT OF CORRECTION

ALL INSTITUTIONS including MAIN OFFICE

PER CAPITA COST STATEMENT showing the population, appropriations, expenditures, unexpended balances and consumption for the fiscal year APRIL 1, 1964 to MARCH 31, 1965

Classification	*Appropriation*	*Expenditures*	*Balances*	*Consumption*	*Per Capita Cost (consumed basis) Per Diem*	*Per Annum*
PERSONAL SERVICE	41,283,089.00	41,159.955.39	123.133.61	41,159.955.39	$5.7484	2.098.18
MAINT. & OPER						
Travel expenses	73,813.00	65,238.53	8,574.47	65,384.27	.0091	3.33
Automotive	74,208.00	71,225.81	2,982.19	70,233.88	.0098	3.58
General Office	120,035.00	119,143.68	891.32	118,596.83	.0166	6.05
Printing & Adv.	58,280.00	57.020.31	1,259.69	56,871.85	.0079	2.90
Communication	221,973.00	218,931.56	3,041.44	218,803.85	.0306	11.15
Fuel, light, etc.	1,821,005.00	1,805,898.52	15,106.48	1,818,544.08	.2540	92.70
					(.5326	194.40)
Food	3,059,493.00	3,042,026.06	17,466.94	3,860,157.89	.5391	196.78
Clothing	687,265.00	682,938.97	4,326.03	677,454.02	.0946	34.53
Household	330,795.00	329,976.45	818.55	342,032.75	.0478	17.44
Medical	279,070.00	276,304.91	2,765.09	274,370.73	.0383	13.99
Farm & Garden	424,705.00	421,704.64	3,000.36	14,111.74	.0020	.72
Special Supplies	383,210.00	369.994.25	13,215.75	372,172.72	.0520	18.97
Repairs	289,060.00	285,663.35	3,396.65	286,411.14	.0400	14.60
Rentals	2,724.00	2,720.00	4.00	2,720.00	.0004	.14
Special Dept. Chges	285.00	174.37	110.63	174.37	—	.01
Equipment—Replace.	182,818.51	182,818.51	–0–	182,818.51	.0255	9.32
Equipment—Additional	66,136.03	61,430.21	4,705.82	61,430.21	.0086	3.13
Sub-total	8,074,875.54	7,993,210.13	81,665.41	8,422,288.84	1.1763	429.34
ALL INSTITUTIONS						
Spec. Dept. Chges						
Board of Prisoners						
Transport convicts						
Transfer prisoners						

			1,401.30	103,598.70		105,000.00
			8,255.03	91,444.97		99,700.00
			45,617.17	4,171,382.83		4,217,000.00

Maintenance Wages**	293,000.00	285,226.58	7,773.42			
Camp Operations—bal.	1,313.00	–0–	1,313.00			
Dental Laboratory	8,500.00	8,395.69	104.31			
Uniform Allowance	450,000.00	436,950.00	13,050.00			
Sub-total	5,174,513.00	5,096,998.77	77,514.23	5,096,998.77	.7119	259.82
MAIN OFFICE						
State Fair	1,600.00	1,477.79	122.21			
Probation S&E	115,336.00	104,195.67	11,140.33			
Moran Institute	30,125.00	27,498.42	2,626.58			
Ident. Workload	96.630.00	96.101.92	528.08			
Sub-total	243,691.00	229.273.80	14,417.20	229,273.80	.0320	11.69
GENERAL ST. CHGES						
Retired Employees	316,500.00	283,043.93	33,456.07	283,043.93	.0395	14.43
Sub-total, M. & O.	13,809.579.54	13,602,526.63	207,052.91	14,031.605.34	1.9597	715.28
TOTAL, P.S. & M. & O.	55,092,668.54	54,762,482.02	330,186.52	55,191,560.73	7.7081	2,813.46
EXCLUDED FROM COST						
Corr. Ass'n. of N. Y.	1,100.00	1,100.00	–0–			
Foster Homes—Hostels	35,800.00	30,157.53	5,642.47			
Local Ass't—Probation	3,325,618.00	3,033.224.51	292.393.49			
Sub-total	3,362,518.00	3,064,482.04	298,035.96			
GRAND TOTAL	58,455,186.54	57,826,964.06	628,222.48			

Average inmate population for 4/1/64 to 3/31/65 19,617
Personnel (Maintenance 6,323; Industry 199) average receiving maint. 240
Actual inmate population on March 31, 1965 19,323

Total and other classification per capita costs based on average inmates only
* ( ) Food—Per Capita cost based on total inmates and personnel fed.
** Distributed to various institutions.

ALL INSTITUTIONS & MAIN OFFICE

Appendix G

SPECIFICATIONS—NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

Correction Hospital Ward Service Series

Correction Hospital Officer, Grade 11
Correction Hospital Officer (TB Service), Grade 12
Correction Hospital Senior Officer, Grade 12
Correction Hospital Senior Officer (TB Service), Grade 13
Correction Hospital Charge Officer, Grade 13
Correction Hospital Charge Office (TB Service), Grade 14
Correction Hospital Supervising Officer, Grade 16
Correction Hospital Chief Officer, Grade 19
Correction Hospital Security Supervisor, Grade 22

These employees are responsible for the custody and care of patients in a hospital for the criminally insane. The work requires a non-technical knowledge of probable reactions of a variety of psychiatric types of patients, the use of recognized methods and techniques in the care of such patients and initiative, alertness and the ability to deal intelligently with emergencies. There is danger of physical injury to patients and employees from violent patients. Positions involving the care of male patients are open to males only. Those involving the care of female patients to females only. Positions assigned to active tuberculosis wards have a tuberculosis service parenthetic title and are allocated to a higher salary grade in recognition of the hazard of infection. Positions which perform custodial work for other types of patient or inmate populations are classified in the Correction Officer Series, 8700; the Attend-

ant Series, 5540; and the Child and Student Resident Care Series, 8241.

CORRECTION HOSPITAL OFFICER acts as custodian of criminally insane patients and performs duties relating to their physical, medical, and psychiatric care: oversees or personally performs the bathing, dressing, feeding, and general personal care of patients; persuades patients to participate in ward work and to engage in recreational or other activities such as letter writing and reading; supervises patients in keeping beds, quarters, and equipment clean; keeps order and prevents escapes; helps to locate escaped patients; guards against injury to persons or property; takes count of patients; makes periodic and systematic searches of wards and dormitories for contraband; opens and inspects patients' private packages; leads groups of patients in work parties on the grounds, farm, coal yard, and elsewhere in the institution and guards and cares for them while at work; issues and accounts for laundry, linen, clothing, and supplies for a ward or group of wards; keeps simple written records and generally assists his superior; may take temperatures; may ride with the transfer agent or bus driver when patients are to be transported in motor vehicles; serves food and maintains cleanliness in a dining room. A Correction Hospital Officer works under the supervision of a Senior or Charge Officer. QUALIFICATIONS: High school graduation. All candidates must be free from any disabling mental or physical defects and must meet established physical requirements. Male candidates must be at least 21 but less than 37 years old and must be at least 5′ 8″ tall and weigh at least 150 pounds. Female candidates must be at least

21 but less than 46 years old and must be at least 5′ 2″ tall and weigh at least 115 pounds.

CORRECTION HOSPITAL SENIOR OFFICER supervises Correction Hospital Officers in the care and custody of a group of patients in a ward or other subdivision during the evening or night shift: assigns Correction Hospital Officers to various tasks; gives orders and instructions; furnishes advice on methods and techniques of psychiatric attendant care; checks quality of work; prepares daily written reports of the physical and mental condition of patients, transfers, escapes, accidents, and other matters; makes arrangements to give prescribed medications; keeps census and time records; inspects light, heat, ventilation, locks, clothing, equipment, and supplies; takes precautions to prevent disturbances and escapes; assists in looking for escaped patients; personally handles more difficult situations and problems. A Correction Hospital Senior Officer has direct responsibility for the care and welfare of the patients in and the physical upkeep of a ward or other subdivision and has working supervision over lower grade officers. This position is less responsible than the Correction Hospital Charge Officer who is in charge of the day shift in a similar unit when most of the medical, housekeeping and related ward activities take place. QUALIFICATIONS: One year of permanent service as a Correction Hospital Officer.

CORRECTION HOSPITAL CHARGE OFFICER supervises subordinate officers in the care and custody of a group of criminally insane patients in a ward or other subdivision during the day shift or is in charge of a group of wards during a later shift; assigns tasks to Correction Hospital Officers

and working patients; checks quality of work; checks patients when they leave for various activities; gives officers special instructions regarding various patients; prepares daily reports of mental and physical condition of patients and of transfers, escapes, accidents, and other matters; maintains care of personal property of patients; inspects light, heat, ventilation, clothing, equipment, and supplies; requisitions new supplies, replacements, and repairs; makes arrangements for medications as prescribed; maintains precautions against disturbances, escapes, and injury to patients; personally handles difficult situations and problems; where assigned to late shift supervision, assigns subordinates to various wards and makes inspection rounds of wards to check health of patients, quality of work of officers, and physical condition of wards; keeps time records; furnishes advice on methods and techniques of patient care; reviews all ward reports and reports all unusual occurrences. QUALIFICATIONS: One year of permanent service as Correction Hospital Senior Officer.

CORRECTION HOSPITAL SUPERVISING OFFICER on an assigned shift is in responsible charge of a large ward building, or supervises the entire ward service of a criminal hospital when there is no correction hospital chief officer on duty: schedules subordinate officers to assure adequate coverage of ward; inspects ward frequently to review work of subordinate officers, advises on methods and techniques of care and custody and checks the physical condition of the ward; maintains patient census, accident and employees time records; supervises food service; takes precautions to prevent disturbances and escapes: supervises searches for escapees; investigates patients' complaints; reviews reports prepared by subordinate officers; prepares daily reports for the Cor-

rection Hospital Chief Officer. QUALIFICATIONS: One y of permanent service as Correction Hospital Charge ficer.

CORRECTION HOSPITAL CHIEF OFFICER under direct sup vision from the Correction Hospital Security Supervis has charge of the ward service of a criminal hospital: sup vises the assignment of all ward service personnel; assig supervisory personnel to posts of duty and reviews th daily reports; inspects the dining room and all other pla where patients are assigned and handles disciplinary pr lems of ward personnel; confers with the medical st on problems relating to ward service; acts for the Corr tion Hospital Security Supervisor in his absence. QUA FICATIONS: One year of permanent service as Correcti Hospital Supervising Officer or two years of perman service as Correction Hospital Charge Officer.

CORRECTION HOSPITAL SECURITY SUPERVISOR is responsi for planning, developing and directing the security a custodial care programs at a hospital for the crimina insane: plans the assignments of custodial and secur personnel to insure adequate coverage at all times; assig supervisory personnel to posts; makes frequent inspectio including periodic night rounds of the hospital to ch security and custody arrangements; confers with the me cal staff on problems relating to the care and treatment patients; establishes and maintains effective coordinati between the medical staff and uniformed personnel; dire searches for escapees; directs periodic searches of the h pital for contraband; formulates plans and procedures use during fires, riots, escapes or other emergency sit tions; reviews accident reports; confers daily with the rector and assistant director and as necessary with s

ordinate supervisory personnel; directs the training of new security and custodial personnel. A Correction Hospital Security Supervisor reports directly to the Director of Criminal Hospital and is responsible to him for the proper fulfillment of all laws, rules and orders of the Department of Correction concerning security and custody. QUALIFICATIONS: One year of permanent service as Correction Hospital Chief Officer or two years of permanent service as Correction Hospital Supervising Officer.

Revised (December 1964) Series 8716

Appendix H

SPECIFICATIONS—NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

**Correction Officer Series*

*Correction Officer, Grade 11
*Correction Sergeant, Grade 15
*Correction Lieutenant, Grade 18
*Correction Captain, Grade 20
Assistant Principal Keeper, Grade 22
Principal Keeper or (Assistant Superintendent), Grade 25
Warden or (Superintendent)**
Kitchenkeeper, Grade 15

These employees are responsible for the custody and supervision of male inmates in a State prison or reforma-

* These titles effective March 28, 1956.
** The salaries of Warden and Superintendent are established by the Correction Law.

tory. Except for Kitchenkeeper, supervision over each class is received from the next higher grade in the series. Differences in titles and salaries between the classes within this series are based primarily on supervisory and administrative duties and responsibilities. These positions are open to men only.

Positions which perform custodial work for other types of patient or inmate populations are classified in the Correction Matron Series, 8233; the Correction Hospital Ward Service Series, 8716; the Attendant Series, 5540; the Colony Supervisor Series, 5551; and the Children's Supervisor Series, 8262.

Correction Officer has immediate supervision over inmates in cells, shops, and wards, at meals and at work, maintaining discipline, supervising work squads, preventing escapes, and guarding against injury to persons and property, takes periodic counts of inmates; examines contents of vehicles entering or leaving gates; helps locate escaped inmates; reports at intervals to superior officers. He ordinarily exercises no formal supervision over other employees and all duties are performed under supervision from a custodial officer of higher rank. Qualifications: Candidates must be high school graduates between the ages of 21 and 35 and must be free from any disabling mental or physical defect and in addition must be 5′ 8″ tall and weigh at least 155 pounds.

Correction Sergeant supervises a group of Correction Officers on an assigned shift in a subdivision of a prison or reformatory: assigns subordinates to posts of duty and gives orders and instructions; inspects the departments of the prison such as the cell blocks, assembly halls, shops

and yard; takes precautions to prevent disturbances and escapes; participates in the rehabilitation of prisoners; prepares daily reports to his superior officers. A Correction Sergeant performs all duties under the supervision of a higher ranking custodial officer, but handles emergency situations and individual problems as they arise. QUALIFICATIONS: Two years of permanent service as Correction Officer.

CORRECTION LIEUTENANT either (1) supervises the entire custodial service on an assigned shift in a reformatory or a moderate-size prison, or (2) in a large prison is responsible for the custodial service in a subdivision of the institution on an assigned shift. The duties are similar to those of Correction Sergeant but include greater supervisory responsibility and participation in the training courses for new Correction Officers. In reformatories or moderate-sized prisons, Correction Lieutenants are under the supervision of the Principal Keeper or Superintendent, while in large prisons they work under the direction of the Correction Captain who is in charge of the shift throughout the institution. QUALIFICATIONS: One year of permanent service as Correction Sergeant; or one year of permanent service as Kitchenkeeper and two years permanent service as Correction Officer.

CORRECTION CAPTAIN either (1) supervises the entire custodial service on an assigned shift in a large prison, or (2) in a reformatory or smaller prison assists the Assistant Superintendent or Principal Keeper in the administration of the custodial service in addition to supervising one shift. A Correction Captain performs duties similar to Correction Lieutenant, and in addition schedules the as-

signments of Correction Lieutenants, Sergeants and Correction Officers, and in the smaller institutions, where there is no Assistant Principal Keeper, sees that buildings and equipment are properly maintained and acts as Principal Keeper in his absence. In a large prison the Correction Captain is responsible to the Principal Keeper; in a smaller institution, the position includes administrative responsibilities as assistant to the officer in charge of the entire custodial service. QUALIFICATIONS: One year of permanent service as Correction Lieutenant, or two years permanent service as Correction Sergeant.

ASSISTANT PRINCIPAL KEEPER is the assistant to the Principal Keeper of a prison in administering the system of custodial care of inmates: assigns all officers to their duties, reports violations of rules to the Principal Keeper, keeps time records, has charge of the morning and evening roll call, has charge of the armory, inspects firearms, sees that buildings and equipment are properly maintained and that the security, well-being, and discipline of the inmates are preserved. He assumes the duties of the Principal Keeper in his absence. The Assistant Principal Keeper is subject to the direction of the Principal Keeper or the Warden. The work involves extensive supervisory responsibility over the entire staff of officers. QUALIFICATIONS: Two years of permanent service as Correction Lieutenant or one year of permanent service as Correction Captain.

PRINCIPAL KEEPER at a prison or Assistant Superintendent at a Correction institution plans and directs the entire system of custodial care of inmates: coordinates institution activities in order to maintain safe custody and order; develops and directs a disciplinary program, designed to

meet individual needs and to further the corrective influences of the institution; makes frequent inspections of all divisions to see that the policies, rules and regulations of the department and institution are carried out; supervises the training of new employees and assumes the full duties of the Warden or Superintendent during his absence. An incumbent has full control over and responsibility for the custodial service and care of inmates subject to the approval of his superior and the rules and regulations of the Department of Correction. QUALIFICATIONS: Two years of permanent service as Correction Captain, or one year of permanent service as Assistant Principal Keeper.

WARDEN in a prison or Superintendent in a Correction institution is the Chief Executive Officer: prescribes the rules and regulations of the institution within the limits of general policies and regulations of the Commissioner of Correction; maintains corrective treatment program; assigns and reviews the work of department heads, such as vocational training, industries, farm and plant maintenance, business management, education, and kitchens; performs inspections to see that the institution is maintained efficiently. Supervision is received through submission of periodic reports and conferences with the Commissioner of Correction. QUALIFICATIONS: Three years of permanent service as Assistant Principal Keeper, or one year of permanent service as Principal Keeper or Assistant Superintendent.

KITCHENKEEPER supervises the preparation and service of food and the custody of inmates employed in the kitchen work in a penal institution: requisitions and rations food and inspects it before, during, and after preparation; plans

menus; estimates food requirements; instructs employees and inmates in cooking; maintains records of food and kitchen supplies and equipment; supervises the bake shop and the butcher shop, and may supervise the pasteurization of milk and canning of vegetables for institution use. The Warden or Principal Keeper reviews the Kitchenkeeper's work through inspection and report analysis, while the Institution Steward reviews the cost of operation. The Kitchenkeeper has direct supervision over from two to six civilian kitchen employees, 50 to 150 inmates assigned to kitchen work, and two to four Correction Officers. QUALIFICATIONS: Two years of permanent service as Correction Officer or one year permanent service as a Head Cook.

(December 1956) Series 8700.

Appendix J

NEW YORK CIVIL PRACTICE LAW AND RULES

ARTICLE 70

HABEAS CORPUS

SUMMARY OF ARTICLE

§ 7001. Application of article; special proceeding.

§ 7002. Petition.

(a) By whom made.
(b) To whom made.
(c) Content.

§ 7003. When the writ shall be issued.

(a) Generally.
(b) Successive petitions for writ.
(c) Penalty for violation.

§ 7004. Content of writ.

(a) For whom issued.
(b) To whom directed.
(c) Before whom returnable.
(d) When returnable.
(e) Expenses; undertaking.

§ 7005. Service of the writ.

§ 7006. Obedience to the writ.

(a) Generally; defects in form.

(b) Compelling obedience.
(c) Precept to bring up person detained.

§ 7007. Warrant preceding or accompanying writ.

§ 7008. Return.

(a) When filed and served.
(b) Content.

§ 7009. Hearing.

(a) Notice before hearing.
(b) Reply to return.
(c) Hearing to be summary.
(d) Sickness or infirmity of person detained.
(e) Custody during proceeding.

§ 7010. Determination of proceeding.

(a) Discharge.
(b) Bail.
(c) Remand.

§ 7011. Appeal.

§ 7012. Redetention after discharge.

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§ 7001. Application of article; special proceeding.

Except as otherwise prescribed by statute, the provisions of this article are applicable to common law or statutory writs of *habeas corpus* and common law writs of certiorari

to inquire into detention. A proceeding under this article is a special proceeding.

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§ 7002. Petition.

(a) By whom made. A person illegally imprisoned or otherwise restrained in his liberty within the state, or one acting on his behalf, may petition without notice for a writ of *habeas corpus* to inquire into the cause of such detention and for deliverance. A judge authorized to issue writs of *habeas corpus* having evidence, in a judicial proceeding before him, that any person is so detained shall, on his own initiative, issue a writ of *habeas corpus* for the relief of that person.

(b) To whom made. A petition for the writ shall be made to:

1. a special term of the supreme court, held in the judicial district in which the person is detained; or

2. the appellate division in the department in which the person is detained; or

3. any justice of the supreme court; or

4. a county judge being or residing within the county in which the person is detained; where there is no judge within the county capable of issuing the writ, or if all within the county capable of doing so have refused, the petition may be made to a county judge being or residing within an adjoining county.

(c) Content. The petition shall be verified and shall state, or shall be accompanied by an affidavit which shall state,

1. that the person in whose behalf the petition is ma
is detained, naming the person by whom he is detained a
the place of detention if they are known, or describi
them if they are not known; where the detention is
virtue of a mandate, a copy of it shall be annexed to t
petition, or sufficient reason why a copy could not be
tained shall be stated;

2. the cause or pretense of the detention, according
the best knowledge and belief of the petitioner;

3. that a court or judge of the United States does n
have exclusive jurisdiction to order him released;

4. if the writ is sought because of an illegal detenti
the nature of the illegality;

5. whether any appeal has been taken from any ord
by virtue of which the person is detained, and, if so, t
result;

6. the date, and the court or judge to whom made,
every previous application for the writ, the disposition
each such application and of any appeal taken, and t
new facts, if any, presented in the petition that were n
presented in any previous application; and

7. if the petition is made to a county judge outside t
county in which the person is detained, the facts whi
authorize such judge to act.

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§ 7003. When the writ shall be issued.

(a) Generally. The court to whom the petition is ma
shall issue the writ without delay on any day, or, whe

the petitioner does not demand production of the person detained or it is clear that there is no disputable issue of fact, order the respondent to show cause why the person detained should not be released. If it appears from the petition or the documents annexed thereto that the person is not illegally detained or that a court or judge of the United States has exclusive jurisdiction to order him released, the petition shall be denied.

(b) Successive petitions for writ. A court is not required to issue a writ of *habeas corpus* if the legality of the detention has been determined by a court of the state on a prior proceeding for a writ of *habeas corpus* and the petition presents no ground not theretofore presented and determined and the court is satisfied that the ends of justice will not be served by granting it.

(c) Penalty of violation. For a violation of this section in refusing to issue the writ, a judge, or, if the petition was made to a court, each member of the court who assents to the violation, forfeits to the person detained one thousand dollars to be recovered by an action in his name or in the name of the petitioner to his use.

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§ 7004. Content of writ.

(a) For whom issued. The writ shall be issued on behalf of the state, and where issued upon the petition of a private person, it shall show that it was issued upon his relation.

(b) To whom directed. The writ shall be directed to, and the respondent shall be, the person having custody of the person detained.

(c) Before whom returnable. A writ to secure the charge of a person from a state institution shall be m returnable before a justice of the supreme court or a co ty judge being or residing within the county in which person is detained; if there is no such judge it shall made returnable before the nearest accessible supr court justice,[1] county judge. In all other cases, the shall be made returnable in the county where it was issu except that where the petition was made to the supr court or to a supreme court justice outside the county which the person is detained, such court or justice m make the writ returnable before any judge authorized issue it in the county of detention.

(d) When returnable. The writ may be made retu able forthwith or on any day or time certain, as the requires.

(e) Expenses; undertaking. A court issuing a directed to any person other than a public officer may quire the petitioner to pay the charges of bringing up person detained and to deliver an undertaking to the son having him in custody in an amount fixed by the co to pay the charges for taking back the person detaine he should be remanded. Service of the writ shall not complete until such charge is paid or tendered and undertaking is delivered.

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§ 7005. Service of the writ.

A writ of *habeas corpus* may be served on any Service shall be made by delivering the writ and a copy

[1] So in original. Word "or" probably should be inserted.

the petition to the person to whom it is directed. If he cannot with due diligence be found, the writ may be served by leaving it and a copy of the petition with any person who has custody of the person detained at the time. Where the person to whom the writ is directed conceals himself or refuses admittance, the writ may be served by affixing it and a copy of the petition in a conspicuous place on the outside either of his dwelling or of the place where the person is detained. If the person detained is in the custody of a person other than the one to whom the writ is directed, a copy of the writ may be served upon the person having such custody with the same effect as if the writ had been directed to him.

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§ 7006. Obedience to the writ.

(a) Generally; defects in form. A person upon whom the writ or a copy thereof is served, whether it is directed to him or not, shall make a return to it and, if required by it, produce the body of the person detained at the time and place specified, unless the person detained is too sick or infirm to make the required trip. A writ of *habeas corpus* shall not be disobeyed for defect of form so long as the identity of the person detained may be derived from its contents.

(b) Compelling obedience. If the person upon whom the writ or a copy thereof is served refuses or neglects fully to obey it, without showing sufficient cause, the court before whom the writ is returnable, upon proof of its service, shall forthwith issue a warrant of attachment against him directed to the sheriff in any county in which such per-

son may be found requiring him to be brought before the court issuing the warrant; he may be ordered committed in close custody to the county jail until he complies with the order of the court. Where such person is a sheriff, the warrant shall be directed to a person specifically designated to execute it. Such person shall have power to call to his aid the same assistance as the sheriff in executing the warrant; a sheriff shall be committed to a jail in a county other than his own.

(c) Precept to bring up person detained. A court issuing a warrant of attachment as prescribed in subdivision (b) may at the same time, or thereafter, issue a precept to the person to whom the warrant is directed ordering him immediately to bring before the court the person detained.

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§ 7007. Warrant preceding or accompanying writ.

A court authorized to issue a writ of *habeas corpus,* upon satisfactory proof that a person is wrongfully detained and will be removed from the state or suffer irreparable injury before he can be relieved by *habeas corpus,* shall issue a warrant of attachment directed to an appropriate officer requiring him immediately to bring the person detained before the court. A writ of *habeas corpus* directed to the person having custody of the person detained shall also be issued. Where it appears that the detention constitutes a criminal offense, the warrant may order the apprehension of the person responsible for the detention, who shall then be

brought before the court issuing the warrant and examined as in a criminal case.

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§ 7008. Return.

(a) When filed and served. The return shall consist of an affidavit to be served in the same manner as an answer in a special proceeding and filed at the time and place specified in the writ, or, where the writ is returnable forthwith, within twenty-four hours after its service.

(b) Content. The affidavit shall fully and explicitly state whether the person detained is or has been in the custody of the person to whom the writ is directed, the authority and cause of the detention, whether custody has been transferred to another, and the facts of and authority for any such transfer. A copy of any mandate by virtue of which the person is detained shall be annexed to the affidavit, and the original mandate shall be produced at the hearing; where the mandate has been delivered to the person to whom the person detained was transferred, or a copy of it cannot be obtained, the reason for failure to produce it and the substance of the mandate shall be stated in the affidavit.

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§ 7009. Hearing.

(a) Notice before hearing. Where the detention is by virtue of a mandate, the court shall not adjudicate the issues in the proceeding until written notice of the time and place of the hearing has been served either personally eight

days prior to the hearing, or in any other manner or time as the court may order,

1. where the mandate was issued in a civil cause, upon the person interested in continuing the detention or upon his attorney; or,

2. where a person is detained by order of the family court, or by order of any court while a proceeding affecting him is pending in the said family court, upon the judge who made the order. In all such proceedings the court shall be represented by the corporation counsel of the city of New York, or outside the city of New York, by the county attorney; or,

3. in any other case, upon the district attorney of the county in which the person was detained when the writ was served and upon the district attorney of the county from which he was committed.

(b) Reply to return. The petitioner or the person detained may deny under oath, orally or in writing, any material allegation of the answering affidavits or allege any fact showing that the person detained is entitled to be discharged.

(c) Hearing to be summary. The court shall proceed in a summary manner to hear the evidence produced in support of and against the detention and to dispose of the proceeding as justice requires.

(d) Sickness or infirmity of person detained. Where it is proved to the satisfaction of the court that the person detained is too sick or infirm to be brought to the appointed place, the hearing may be held without his presence, may

be adjourned, or may be held at the place where the prisoner is detained.

(e) Custody during proceeding. Pending final disposition, the court may place the person detained in custody or parole him or admit him to bail as justice requires.

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§ 7010. Determination of proceeding.

(a) Discharge. If the person is illegally detained a final judgment shall be directed discharging him forthwith. No person detained shall be discharged for a defect in the form of the commitment, or because the person detaining him is not entitled to do so if another person is so entitled. A final judgment to discharge a person may be enforced by the court issuing the order by attachment in the manner prescribed in subdivision (b) of section 7006.

(b) Bail. If the person detained has been admitted to bail but the amount fixed is so excessive as to constitute an abuse of discretion, and he is not ordered discharged, the court shall direct a final judgment reducing bail to a proper amount. If the person detained has been denied bail, and he is not ordered discharged, the court shall direct a final judgment admitting him to bail forthwith, if he is entitled to be admitted to bail as a matter of right, or if it appears that the denial of bail constituted an abuse of discretion. Such judgment must fix the amount of bail, specify the time and place at which the person detained is required to appear, and order his release upon bail being given in accordance with the code of criminal procedure.

(c) Remand. If the person detained is not ordered discharged and not admitted to bail, a final judgment shall be directed dismissing the proceeding, and, if he was actually produced in court, remanding him to the detention from which he was taken, unless the person then detaining him was not entitled to do so, in which case he shall be remanded to proper detention.

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§ 7011. Appeal.

An appeal may be taken from a judgment refusing to grant a writ of *habeas corpus* or refusing an order to show cause issued under subdivision (a) of section 7003, or from a judgment made upon the return of such writ or order to show cause. A person to whom notice is given pursuant to subdivision (a) of section 7009 is a party for purposes of appeal. The attorney general may appeal in the name of the state in any case where a district attorney might do so. Where an appeal from a judgment admitting a person to bail is taken by the State, his release shall not be stayed thereby.

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§ 7012. Redetention after discharge.

A person discharged upon the return of a writ of *habeas corpus* shall not be detained for the same cause, except by virtue of a subsequent lawful mandate.